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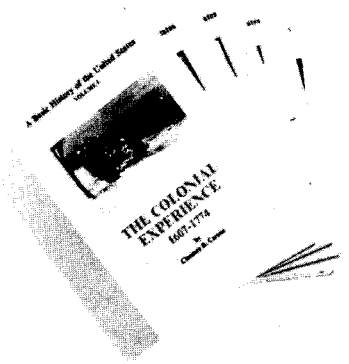

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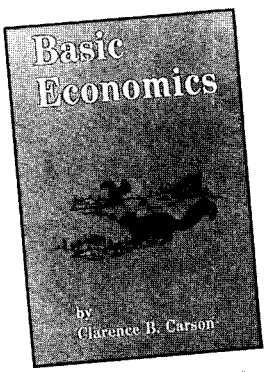

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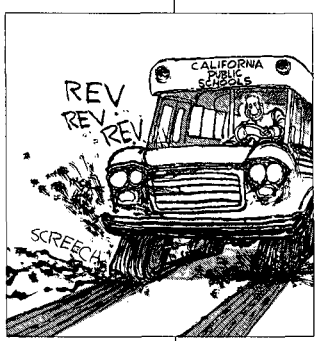

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ANXIETY ATTACK

VIRGINIA I. POSTREL

This year marks the centennial of the World's Columbian Exposition, the great fair that brought the world to Chicago. In 1893, 28 million visitors wandered through its classically inspired buildings, sampling oranges at the California exhibit and iced cocoa at the Java Village, riding the first Ferris Wheel (which took 40-person cars 264 feet in the air), marveling at the moving pictures of Thomas Edison's new kinetoscope.

The fair was a tribute to world cultures, technological progress, and material abundance. It captured the spirit of its age.

But history looks different when you're living through it. Then, as now, progress was not uniformly benevolent. 1893 was a year not unlike 1993, a time of worldwide recession and long-term economic restructuring.

Farmers, in particular, resented the Columbian Exposition's display of wealth and optimism. For them, abundance meant not oranges and kinetoscopes but falling crop prices and an uncertain future. The Farmer's Alliance in Gillespie County, Texas, resolved to ask that the fair's organizers "let the world of pleasure, leisure, and Style see the men and women in their jeans, faded callicoes, cotton-checks who by their labor and handicraft have made it possible for such an Exhibit. Let the Farmer's cabin, the miner's shanty and the tenement of factory hands be beside those magnificent buildings which represent the State and the Nation."

In 1893, the farmers' request, and the resentment and anxiety behind it, went mostly unheeded. In 1993, similar sentiments have thrown the country—or at least the opinion makers who define the spirit of *our* age—into an anxiety attack over jobs.

We hear the voices of those 19th-century farmers in Ross Perot's cry to "Save Your Job, Save Our Country" by rejecting free trade with Mexico. They echo in the letter to the editor of *The Atlantic* that declared, "Wal-Mart is the embodiment of the excessive greed of the eighties and the horrendous devastation that has been its byproduct." They murmur throughout Robert Reich's *The Work of Nations*, whispering not of "the world of pleasure" versus "labor and handicraft" but of "symbolic analysts" versus "routine producers" and "in-person servers."

The mass-production revolution traded the independence of farming for the relative security of factory work. Our current "age of discontinuity," in Peter Drucker's prescient phrase, reverses that flow. Technological change, global competition, decentralized institutions, and knowledge-based economics have disrupted—and in some cases destroyed—the stable organizations and predictable careers born of the very changes that displaced the farmers of 1893.

We've moved from mainframes to laptops, from union members to entrepreneurs, from overtime to flextime, from Ma Bell to Friends and Family. Temporary work, that bane of social critics who long for assembly-line security, has become the safety net for independence-minded people with skills. It allows them to move across country, to quit jobs with near-impunity, to break into new industries.

But today's leaders suggest that economic dynamism is either a natural disaster like the Mississippi floods—an unstoppable force against which we are powerless—or a conspiracy of the elite against the masses. The former is the position of most Clintonites, the latter of self-styled populists. In 1993, we see only the faded jeans and calicoes, the tenements and shanties. It is not fashionable to talk about Ferris Wheels and cocoa.

The fashions that dictate a scared new world stem partly from the understandable desire for the products of dynamism without its costs. Politicians who promise utopia, who speak of "electronic superhighways" while pretending they can be built without upheaval, only feed resentment on the part of displaced workers who feel they've been conned. Yet talking only of the inevitability of economic change, without mentioning its benefits, drives the fearful into the arms of those who peddle the politics of stasis.

The question no one, least of all Perot, will ask is, What should your country sacrifice to save your job? Consider IBM. In late July, the company said it would eliminate 35,000 jobs by the end of 1994. Since 1986, it has slashed its payroll from more than 400,000 employees to about 250,000.

That's quite a shock. For decades, IBM represented security. Although it required constant upheaval in the personal lives of its organization men—people joked that the initials stood for "I've Been Moved"—it promised lifetime employment and the prestige of association with a progressive big company.

It also offered a sense of purpose. In the old days (not coincidentally, Ross Perot's formative business years), IBM was the future. It was moving America into the age of data processing, a future where "black boxes" with spinning tape drives, manned by brainy guys in white shirts, would make the world clean, efficient, and orderly. (To social critics, of course, the guys in white shirts represented conformist "mass man," consigned to live a bland, unfulfilling existence in "little boxes made of ticky-tacky.")

But that wasn't the future we got. Instead, long-haired California misfits exploded the centralized mainframe and put a

computer on everybody's desk. Nowadays the biggest question facing computer users isn't whether the data-processing department will accept their job order but whether to wait six months to buy an even better machine at an even lower price.

Despite its best efforts to keep up, and at times they were very good, the old IBM couldn't adapt to a decentralized, often chaotic market in which desktop machines took on the power of mainframes and brand loyalty was nearly nonexistent. "Everything I learned at IBM is worthless," a laid-off engineer told the *Los Angeles Times*. It remains to be seen whether IBM can reinvent itself or whether, like the Sears catalog, it belongs to the ages.

The anxiety peddlers never ask, Would you give up your laptop to preserve 150,000 jobs at IBM? Do you wish the Mac had never been invented? If you could, would you wipe out desktop publishing, saving not only all those IBMers but also untold numbers of typesetters and paste-up artists?

The personal-computer revolution, like the industrial revolution, is not a natural disaster, though it may feel like one to those whose jobs it flooded out. It is, like the transportation revolution that made possible oranges in Chicago, a technological response to the desires of millions for a better life.

Those desires do not please our social critics. In an age of mass production, they railed about the alienation of the worker. Now they complain about the service economy and the shortage of high-paid, workingmen's jobs even as they denounce frivolous consumption and planet-threatening growth. They long for dark, satanic mills.

It is easy to be nostalgic for the world we have lost, easier still when voters can be bought with nostalgia for the jobs they once held. But the age of discontinuity, too, recalls earlier ages. It asks a familiar-sounding question: Are we better off than we were 100 years ago? Who was right—the farmer or the fair? ◼

FEDERAL DIET PLAN

RICK HENDERSON

Bill Clinton and Al Gore have some decent ideas about reinventing government—streamline purchasing regulations, make it easier to reward competent employees and fire slackards, consolidate redundant agencies. But the vice president's National Performance Review is, in truth, a pretty wimpy effort.

Gore says reinventing government can save $108 billion over five years. That's a mere 1.2 percent of total federal spending. And, unlike the Grace Commission and other watchdogs that have tried to root out "waste, fraud, and abuse," Clinton and Gore have no intention of returning these savings to taxpayers. Health care, national service, and other new spending programs will expand the bureaucracy as it becomes more "efficient."

The review's purpose—and its Achilles' heel—was identified by David Osborne (a performance review consultant) and Ted Gaebler in their 1992 manifesto: "*Reinventing Government* addresses *how* governments work, not *what* they do."

Reform-minded Americans, however, want elected officials to streamline the civil service *and* eliminate costly programs. An exit poll last November revealed that more than half of Clinton's support came from people who wanted lower taxes and smaller government. The president's desire to endlessly expand federal programs also contrasts sharply with the priorities of the much-ballyhooed "Perot voters" and other grass-roots reformers.

Fortunately, there's a proposal that would force the White House and Congress to put the federal government on a diet. Rep. Robert Walker (R-Pa.) has introduced the Taxpayer Debt Buy-Down Act of 1993. Walker's bill would reinvent government by shrinking it—and let individual taxpayers decide how strict the diet would be.

The Walker plan would let taxpayers use their income-tax forms to set aside as much as 10 percent of their tax payments to retire federal debt. Every dollar checked off would buy down a government bond or other form of debt.

Unlike Clinton's deficit-reduction trust fund, the Walker plan is no gimmick: Every dollar designated for debt retirement would also permanently cut federal spending by a dollar. Politicians wouldn't be able to dodge these cuts. If Congress didn't slash programs, then an across-the-board sequester would automatically make the cuts. (The plan exempts Social Security, deposit insurance, and interest payments.)

We're talking real money. Say the plan passes this year. The Congressional Budget Office projects that if every taxpayer checked off the maximum, in fiscal year 2003 the program would have retired more than $700 billion in debt and federal spending that year would be $70 billion *less* than it was in the first year of the plan. (Spending in the sequesterable programs would drop from a scheduled $1.645 trillion to $945 billion.) The federal debt could be paid off within 15 years.

Even if no one checked off a dollar for debt reduction, the plan would freeze spending at its current budgeted level. The anticipated growth in tax revenue could balance the budget within six or seven years.

Of course, Congress could introduce new spending programs and pay for them with new excise, consumption, or payroll taxes. But people might be less likely to endorse additional government programs if they weren't "free."

And the Walker plan would force Congress to explain, for instance, why taxpayers should pay farmers not to grow crops, give every 65-year-old virtually free medical care, and guarantee any high school graduate both a free college education *and* a government job after graduation.

Desperate times often require extreme measures. Since Ronald Reagan promised to balance the budget and pay off the debt in 1980, federal debt has grown by nearly $3 trillion. At a Cato Institute forum in September, Walker admitted his fiscal revolution would result in fierce debates. Just remember, dieters: no pain, no gain. ◼

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LETTERS

Loaded Topic

Thank you for David B. Kopel's excellent article "Gun Play" (July). I would like to add two points about the "gun-free school zones" fraud.

Although on the surface these laws make it a felony to possess a gun on school property, any such charges against a child would be handled under more-lenient juvenile justice rules. The kids know it, too. Thus the full weight of these laws falls on the grownups, not the kids. Has there been a problem with adults carrying guns to school?

The 1,000-foot rule is particularly dangerous to hunters. Many schools, especially in small towns, are within 1,000 feet of main travel routes. Simply driving to your hunting spot can be a felony. The federal Gun-Free School Zones Act of 1990 exempts firearms in locked containers, but how many hunters even know about this?

W. J. Meyers
Research Triangle Park, NC

A SENSIBLE GUN POLICY almost leaps from the data supplied by David Kopel in "Gun Play": Gun accidents and abuse are associated with ignorant and irresponsible gun users; bans on guns make matters worse. So don't ban guns, but do require gun users to pass a basic gun safety and marksmanship test in order to receive a gun license.

Why not treat guns just like other valuable technology that may endanger innocent bystanders—like cars, planes, explosives, radioactive materials, and toxic chemicals? That is, require users of the technology to demonstrate competence and responsibility.

Mary M. Cleveland
New York, NY

IF THERE IS ONE topic guaranteed to separate your average European libertarian from your average American libertarian, it must be the latter's attitude toward guns. David Kopel's article on children and guns is a prime example of a cultural gap wider than the ocean between our shores.

Like cars, skateboards, and electric toasters, guns kill people. Unlike these other products, however, the very purpose of the gun is to kill—death is not, as for some unlucky consumers, an unfortunate side effect. We have a simple attitude toward such products in Europe: You only give them to the people who may have to use them, namely (some) police and soldiers.

The citizen's right to bear a high-caliber machine gun is not something that we cherish very highly. Rather, we cherish the right to be free of the threat of machine-gun-bearing citizens (and we don't think that carrying a bigger gun is the best guarantee of such rights).

The United States has one of the highest murder rates in the world, and a large proportion of the victims are related to the perpetrators. This would suggest that if there were fewer households containing guns, there would be fewer murders.

Frankly, encouraging children to become more familiar with guns as a means of reducing their usage is about as sensible as teaching them to use clean needles whenever they want to take heroin. Most parents would prefer to teach them about the dangers of heroin.

Europe is no gun-free utopia. Right now in Bosnia (or indeed in Northern Ireland), Europeans are slaughtering one another with more than just handguns. But most of us can (still) walk our cities' streets at night, free of the kind of fear endemic to many American cities as a result of your cultural preferences for widespread gun ownership.

Perhaps we prefer different types of freedom? Or perhaps American libertarians need to start recognizing that the price of

your gun freedom is the loss of something even more valuable to your citizens?

Gerald O'Neill
Dublin, Ireland

THE LIBERTARIAN POSITION on guns is the part of libertarian philosophy with which I have the most difficulty, and reading a carefully constructed essay that was not designed to appeal only to my emotions was a pleasure. But there was a flaw in the article, and it shows an interesting failure of perception. David Kopel is a strong advocate of teaching children proper firearm use. His grounds for teaching gun safety are that children will inevitably learn about firearms, just as they inevitably learn about sex. ("In cities where no child may shoot a BB gun with his parent, kids learn about firearms on the street and shoot each other with 9-mm pistols.")

This premise may be true, but it is certainly arguable—and statistics showing that gun-safety courses reduce firearm accidents don't address the question of whether children not exposed to guns will necessarily obtain guns. Gun-control laws will not increase the number of children exposed to guns in their households or on the street.

I was raised in a house with no guns by parents who believed in gun control. I bought my first air pistol when I was 18, and I started shooting black-powder weapons a few years later. I never hurt anybody with these things, mostly by the consistent application of common sense. My brother had no interest in guns and as far as I know possesses none. I keep my weapons locked up in a household that includes a 12-year-old child, and she has shown little interest in them, although I have taken her shooting a few times.

In my experience, interest in guns precedes finding out about them. That interest is not a necessary consequence of growing up, but a product of a child's environment and education. A properly brought up child may or may not develop a constructive interest in shooting; a child who is foolish and has a gun is dangerous, safety training or no.

Charles Shapiro
Avondale Estates, GA

Mr. Kopel replies: W. J. Meyers's elaboration of flaws in the federal Gun-Free School Zones Act of 1990 illustrates the problems that can occur when Congress rushes to enact national emergency legislation for problems that could be handled much more sensibly at the state and local level. Federalizing almost any problem tends to result in poor solutions, and the problems of guns and schools is no different.

Ms. Cleveland's proposal for requiring prospective gun owners to pass safety and marksmanship tests is intuitively plausible. Unfortunately, the actual history of how such tests have been administered in the jurisdictions where they have been adopted shows that the tests are quickly perverted by anti-rights bureaucrats and become substantial, unreasonable barriers to gun ownership. It should also be noted that there is no requirement that persons who own and drive cars, or who possess toxic waste, pass any government-mandated safety class, as long as the activity takes place entirely on private property.

Mr. O'Neill's description of the "European libertarian" attitude towards firearms certainly wasn't shared by Patrick Henry Pearse and the other Irish revolutionaries who used firearms to resist British colonial rule. The authors of the American Constitution deliberately chose to break from European traditions of gun control, because the Founders, having observed European history, thought that disarming the populace was quite often a first step towards enslavement and even genocide. "Gun control" has been a cornerstone of the fascist, communist, and other dictatorial regimes that have murdered so many Europeans in this century.

As for Mr. O'Neill's assertions that guns are the cause of America's high rate

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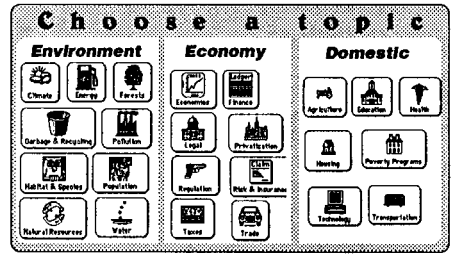

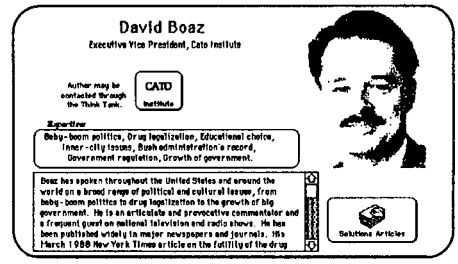
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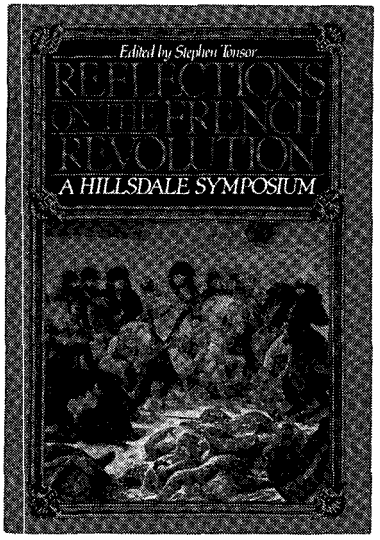

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LETTERS

of street crime or domestic homicide, the criminological research suggests that guns in the hands of law-abiding Americans provide a substantial deterrent to criminals, whether those criminals are a gang of muggers or an abusive husband. For more, see Gary Kleck's excellent 1991 book, *Point Blank: Guns and Violence in America* (Aldine de Gruyter).

Mr. Shapiro's observations about curiosity and human nature are not implausible. But it is questionable whether, as a practical matter, a country with 200 million guns should base its accident-prevention policies on the hope that children will never be exposed to firearms.

Valley Guys

I just read T. J. Rodgers's "High-Tech Hoax" (July). This is the best concise explanation of why statism and central planning always fail. If I were an authoritarian, I would assert that every adult American should read it.

Allen L. Tiffany
Lawrence, KS

TALK ABOUT A BREATH OF fresh air! T. J. Rodgers's article was music to the soul. What a joy to know that some large and prosperous (also competitive) companies are refusing to accept government handouts and monopolies.

In an old Charlie Chan movie, the detective hero had just suffered from an action that was supposed to help him. He told the would-be helper about a big-hearted elephant that wanted to help a little hen hatch her chicks. The elephant sat on her eggs. Bill Clinton's plans to subsidize the high-technology industries remind me of that elephant.

William B. Williford
Houston, TX

I VERY MUCH ENJOYED the article by T. J. Rodgers about Bill Clinton and Silicon Valley. While I have spoken with Mr. Rodgers and admired him for some time, I find that some of the industry captains he mentions only partially support his ideas. Indeed, at least one of his friends has risen to his current lofty position due in large part to his active and highly visible support of Sematech, the entity that Mr. Rodgers seems to loathe. This same friend now cries foul about increased personal taxes. Intel Corp., which Mr. Rodgers also mentions, albeit somewhat obliquely, has led the charge in support of Sematech.

I agree with Mr. Rodgers that all of Silicon Valley doesn't stand with Mr. Clinton, but the rest of it should not be viewed as totally populated by admirable friends of freedom, however nice their quotes.

Bill Bahr
Bloomingdale, IL

Mr. Rodgers replies: Guilty as charged! Whenever I can get Silicon Valley's CEOs to support economic freedom, I accept their support with no strings. In return, I fail to point out that their position, "We have got to get this federal budget in balance—right after I get my Sematech subsidy," is inconsistent, at best. Silicon Valley is not a free-market utopia, but if you look at government-industry collusion in other sectors of our economy, we come off pretty well.

Correction & amplification: The column "Copping Out" in our August/September issue may have left the false impression that L. Brent Bozell III of the Media Research Center fabricated statistics when he stated, "Surveys have shown that one in three cops on television today is the villain. It is devastating that one out of every three policemen is perceived and promoted as an evil person." In fact, Mr. Bozell based his statement on a misreading of the book *Watching America* by Robert and Linda Lichter and Stanley Rothman. On page 223 of the book, the authors state that in the period 1975 to 1986, positive portrayals of police officers outnumbered negative portrayals three to one. This means that *one in four* cops was portrayed in a less-than-favorable light, though not necessarily as a villain. (The book cites the comic sheriffs on *The Dukes of Hazzard* as examples of negative portrayals.)

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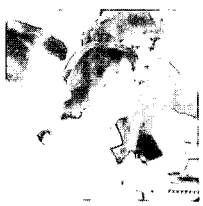

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  —Thomas Jefferson

- "Capitalism is the only system in history where wealth is not acquired by looting, but by production, not by force, but by trade, the only system that stands for man's right to his own mind, to his work, to his life, to his happiness, to himself."
  —Ayn Rand

- "More police, more jails, harsh penalties for drug users, and a whole panoply of repressive measures can only make a bad situation worse. The drug war cannot be won by those tactics without undermining human liberty and human freedom."
  —Milton Friedman

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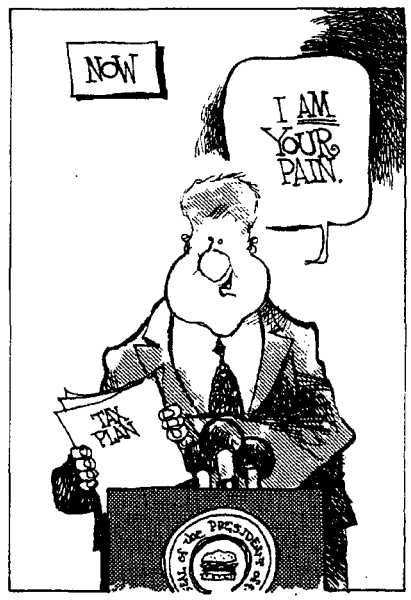
CHIP BOK

In Cobasset, Massachusetts, Linda Gallagher asked city officials for a "Slow Children" sign for the residential street on which she lives with her two toddlers. City officials want to grant her wish, but there's a problem. State law forbids the signs for fear they will offend the mentally retarded. Cobasset officials are now awaiting delivery of signs that read simply "Children."

Also in Massachusetts, the state legislature recently made navy beans with molasses (or maple syrup) the official state food. Somehow it seems appropriate that the state that keeps sending gasbags like Ed Markey and Ted Kennedy to Congress would make beans the state food.

Can't get tickets to *Cats*? Missed *The Will Rogers Follies*? Then save your money for the upcoming musical based upon the life of dead press baron and cheat Robert Maxwell. The play will follow the rotund Czech as he bounces from company to company, looting them all to the music of Arthur Sullivan. What's next? Maybe an opera about anti-smut crusader and savings-and-loan swindler Charles Keating.

Johann Peter Grzegnack had to go to the bathroom. Badly. So it didn't matter that federal rules prohibit moving about as an airplane is taking off. When flight attendants tried to stop him, the German tourist pushed his way past them, shouting an explanation. But something got lost in the translation. "The roof is going to go!" they thought he said. And, well, to make a long story short, the plane was turned around to Ft. Lauderdale, and Grzegnack was arrested for making a bomb threat and interfering with a flight crew. Fearing another misunderstanding with an American jury, the tourist pleaded guilty to the lesser charge in return for dropping the bomb charge.



SCOTT STANTIS

In Grangeville, Idaho, the health inspector has ruled that an Earth First! campsite violates state code for the disposal of waste and "shows contempt for the Earth."

A *Consumer Reports* reader writes that he was assembling a Yamaha Electric Grand keyboard when a word in the instructions caught his eye. I won't repeat the word because it might offend some of our more genteel readers, but my guess is that the company meant "screw."

In Israel, a rabbinical court has told Tara Dairies that it will withdraw its kosher endorsement if the company does not stop using dinosaurs on its labels and in its advertising. The court says that the claim that dinosaurs roamed the earth millions of years ago contradicts religious teaching that the world is about 6,000 years old.

Actress Kathy Najimy had some reservations about doing the recently released Bette Midler film *Hocus Pocus* because she didn't want to help perpetuate the myth of the evil, ugly witch. Before agreeing to take the part, Najimy says she consulted Gloria Steinem "because she's the goddess of the world and knows everything."

Postal Service worker Helen Grant, whose job is to reroute undeliverable mail, tells *Newsweek*, "It's absolutely astounding how many Mother's Day cards we get from folks who don't have the address of their mom." But it's the thought that counts, isn't it?

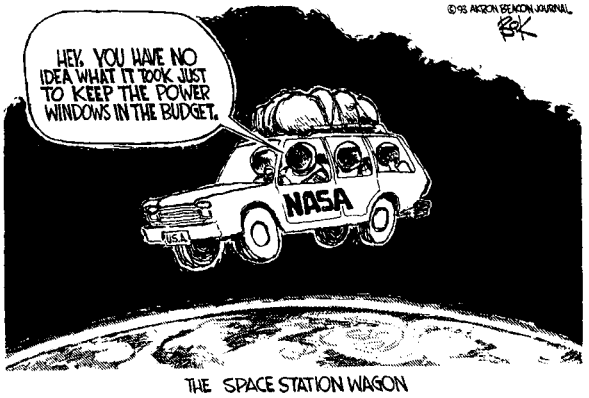
Gerard Papillou, mayor of Cape d'Agde, France, has a complaint about tourists at the seaside resort: "More and more holidaymakers are refusing to get undressed." So the mayor has formed a patrol to police the city's nude-only beach and make sure that sunbathers strip or go to jail.

In Idaho, the Occupational Safety and Health Administration has leveled a $7,875 fine against the construction firm DeBest Inc. The company's troubles began when a dirt wall collapsed on a worker. Two other workers immediately jumped in to help him. But they neglected to put on hard hats and take other precautions to prevent injury to themselves. That was a violation of OSHA rules, and it got the company fined. The local OSHA director said it would be "selective enforcement" not to fine DeBest.

—Charles Oliver

Shoot the Moon

David Anderman, vice president of the National Space Society's Los Angeles chapter, wants to see flights into space become as common as flights across the country. But he knows that until the government gets out of the routine spaceflight business, his vision will remain the stuff of science fiction.



THE SPACE STATION WAGON

"What would American Airlines be like if it were run by the federal government?" he asks. "It would have four flights a year, and on the fifth flight there would be a crash."

In a step toward transferring routine spaceflight from the government to the private sector, Anderman has convinced several members of Congress that NASA should use a portion of its budget to purchase information about the moon from a private company. His proposed Lunar Resources Data Purchase Act—the "Back to the Moon Bill"—would instruct NASA to hire an outside contractor to map the shape and mineral content of the moon's surface. Apollo did some of this mapping but focused mainly on the equator. The contractor would retain the rights to any other information obtained on the mission.

Rep. Bob Walker (Pa.), the ranking Republican on the House Committee on Science, Space, and Technology, has introduced a version of the Back to the Moon Bill as part of the Omnibus Space Commercialization Act of 1993. The relevant section requires that NASA buy data about the moon and other celestial bodies from the private sector "to the maximum extent possible." As currently worded, the bill does not mandate a specific appropriation. Reps. Dana Rohrabacher (R-Calif.), Harris Fawell (R-Ill.), and Nick Smith (R-Mich.) are co-sponsors of the proposal.

NASA says it can get an unmanned spacecraft to the moon for about $125 million. Anderman's proposal, on the other hand, would place a $65-million cap on bids, and he expects companies to submit bids for as little as $40 million. John Pike, director of space policy for the Federation of American Scientists, says savings of 5 percent to 20 percent are more realistic, since NASA already contracts out for all but its administrative functions. But Torrance Johnson, senior scientist at the Jet Propulsion Laboratory, believes that a private company could achieve cost savings in the range that Anderman predicts.

In 1992 the purely commercial space industry had revenue of $4.6 billion, which Anderman attributes largely to the 1991 Launch Services Purchase Act, initiated by the Tucson chapter of the National Space Society. That law requires NASA to hire commercial rockets for all its own payloads not designed specifically for the space shuttle.

—Jacob Kramer

Weak End of Bernie's

"Those Democrats are a bunch of socialists!" This declaration, widely considered a sure mark of a right-wing lunatic, may actually be an understatement. In 1992, according to the Competitive Enterprise Institute's annual tabulation of congressional votes on economic matters, 160 (out of 268) Democratic representatives supported free-market policies less often than Bernie Sanders (I-Vt.), the only self-declared socialist in the House. CEI looked at 117 House votes and 96 Senate votes on measures involving subsidies and pork-barrel projects, spending control, deregulation, taxes, environmental policy, and international trade. House Democrats had an average score of 20, compared to 71 for Republicans; in the Senate, Democrats averaged 23, and Republicans averaged 69.

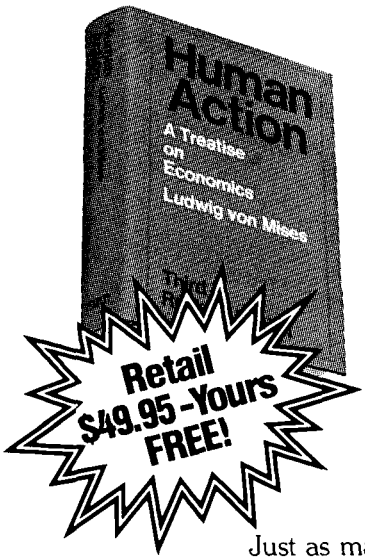
The CEI Index (Top Five and Bottom Five Scores)

Free Enterprise Friends	Free Enterprise Foes
HOUSE	HOUSE
Richard Armey (R-Tex.), 97	Bill Alexander (D-Ark.), 2
Phil Crane (R-Ill.), 96	Richard Gephardt (D-Mo.), 3
William Dannemeyer (R-Calif.), 96	Norman Mineta (D-Calif.), 3
Bob Stump (R-Ariz.), 96	Louis Stokes (D-Ohio), 4
Mel Hancock (R-Mo.), 93	David Bonior (D-Mich.)/Dante Fascell (D-Fla.), 4
SENATE	SENATE
Jesse Helms (R-N.C.), 99	Albert Gore (D-Tenn.), 7
Robert Smith (R-N.H.), 93	Brock Adams (D-Wash.), 8
Larry Craig (R-Idaho), 93	Paul Sarbanes (D-Md.), 9
Steve Symms (R-Idaho), 91	Ted Kennedy (D-Mass.), 10
Malcolm Wallop (R-Wyo.), 91	Claiborne Pell (D-R.I.)/Paul Wellstone (D-Minn.), 12

Note: House Speaker Thomas Foley (D-Wash.) and Sen. Jocelyn Burdick (D-N.D.) have been excluded because they cast very few votes in 1992.

Source: Competitive Enterprise Institute

CHIP BOK



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The East Is Read

"Moscow is next—and I've no intentions of stopping there!" says Scott Alexander, as he sets his glass of *Velke popovicke*, a favorite local brew, on the table of the well-known Prague pub.

Alexander moved to the Czech Republic from Washington, D.C., two years ago to found the European Journalism Network to help university students in formerly communist countries establish free-market–oriented newspapers. EJN-sponsored papers are now published in Budapest, Szombathely (Hungary), Kiev, Warsaw, Bratislava, and Prague. Alexander is laying the groundwork for papers in Moscow and Zagreb.

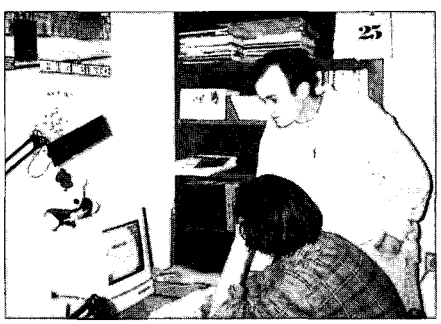
"We hope to give students a voice in the educational and political reform in Eastern Europe," he explains. Since he runs the network "as an entrepreneurial venture, ensuring that each publication operates as a successful business," the students are also learning valuable business skills.

EJN papers have already made waves. *Kilátó*, published at Hungary's Dániel Bercsenyi University, ran an article in March parodying Istvan Csurka, at the time a member of parliament known for his anti-Semitism, irredentism, and xenophobia. (See "Loose Cannon," Dec. 1992.) Csurka was so incensed after reading the article (all political leaders receive copies of the local EJN papers) he complained to the minister of education. To appease Csurka, the minister called the university president to Budapest.

Upon his return, the president summoned *Kilátó*'s editorial staff to his office. "They were terrified," recalls Alexander. To their immense relief, the president greeted them with, "You're doing a *great* job!"

EJN has attracted notice in the United States, too. *U.S. News & World Report* dubbed the papers "laboratories of capitalism" for their success teaching students to participate in the free market as well as to write about it.

—Elizabeth Larson



Scott Alexander works with Jiří Kroupa of Prague's student newspaper, *Babylon*.

Vouching for Vouchers

Opponents of school voucher programs argue that the proposal is untested and unrealistic. But since 1983 Milwaukee County, Wisconsin, has been quietly using vouchers to fund day care and early education for children in low-income families.

A recent study by the Wisconsin Policy Research Institute reports that 3,757 poor children in Milwaukee County obtain day care each year through vouchers worth $2,854 each. Under the program, which costs $16.4 million annually, parents can choose from 236 for-profit and not-for-profit agencies and 1,264 licensed family day-care providers.

Before the program, the county contracted out for day care, and parents could choose from only a handful of providers. This was inconvenient for parents who did not live near any of the centers. The study notes that parents "have a track record of successfully choosing which among many providers would be best for their child or children."

Ed Konkol, assistant administrator of the county's Youth Services Division, says the vouchers have freed government supervisors from the program's day-to-day details. Under the old system, county employees had to negotiate with contractors who threatened to cut off services unless they received more money to pay for cost overruns. Now providers compete for vouchers, which are distributed by an independent agency.

Dick Bushman, manager of the bureau that oversees the voucher program, says it has cut costs by about 20 percent, primarily by eliminating the problem of excess capacity due to absenteeism. Under the voucher system, those absent from day care do not cost the county anything because they do not redeem their vouchers.

—Jacob Kramer

Rape Rap

Proponents of censorship claim that rape rates soared as pornography proliferated in the 1970s and '80s. "The violence toward women is there, everywhere," Eleanor Smeal, head of the Fund for a Feminist Majority, said after a March 11 conference on pornography. "I don't want a police state....But to do nothing out of fear is wrong."

Yet according to a study published in the Spring issue of the *Maryland Law Review*, the best evidence does not support a connection between pornography and rape. Measuring pornography sales in constant dollars, Rutgers University law professor George C. Thomas III finds a fourfold increase during the last two decades. And according to the source most commonly cited by anti-porn activists, the FBI's Uniform Crime Reports, the rape rate increased from 0.24 per 1,000 people in 1973 to 0.41 in 1990.

What's more, the UCR data do not differentiate between stranger and acquaintance rape, so the figures may be inflated by changes in the definition of acquaintance rape. Thomas cites two studies in which groups of university students were asked about a situation in which sex occurs after a woman clearly and repeatedly rejects a man's advances (and does not ultimately consent). The percentage who considered this rape increased from 58 percent in 1981 to 97 percent in 1992. As more incidents come to be viewed as rape, the number of rape reports would naturally rise, even without a change in the number of incidents.

Unlike the UCR, the Justice Department's National Crime Survey, which polls a representative nationwide sample, divides rapes into "stranger" and "nonstranger" categories. Since the "stranger" category should not include any incidents reported due to changing attitudes about what constitutes acquaintance rape, Thomas concludes that it provides the best available measure of the trend in rapes. According to this measure, the rape rate has actually fallen by about 50 percent since 1973.

—Jacob Kramer

ELIZABETH LARSON

Drugs and Thugs

In 1990 Jonathan Shedler and Jack Block, two psychologists at the University of California, Berkeley, were attacked as traitors in the war on drugs after they reported that "problem drug use is a symptom, not a cause, of personal and social maladjustment." But three years later, the results of a government-funded study lend support to that conclusion.

Describing a careful longitudinal study of 101 subjects in the May 1990 issue of *American Psychologist*, Shedler and Block wrote: "Adolescents who had engaged in some drug experimentation were the best-adjusted in the sample. Adolescents who used drugs frequently were maladjusted, showing a distinct personality syndrome marked by interpersonal alienation, poor impulse control, and manifest emotional distress. Adolescents who, by age 18, had never experimented with any drug were relatively anxious, emotionally constricted and lacking in social skills."

The way kids are raised seems to be more important than whether they use drugs.

These differences showed up early in childhood and seemed to be related to the way the kids were raised. Shedler and Block concluded that "the meaning of drug use can be understood only in the context of an individual's personality structure and developmental history."

That assessment now appears to be respectable. The May/June issue of *NIDA Notes*, the newsletter of the National Institute on Drug Abuse, reports on a recent study of 51 male teenagers in a Denver drug-abuse treatment program, all of whom had engaged in misbehavior such as stealing, truancy, fighting, arson, property destruction, cruelty to people or animals, lying, and running away. Seventy-seven percent of them said they had started using drugs regularly one to 13 years *after* they began misbehaving.

"The majority engaged in these behaviors both while they were intoxicated and when they were not, and for reasons related and not related to drugs," said McGill University psychiatrist Mark Zoccolillo, coauthor of the study. "The antisocial behaviors not only begin before the substance abuse but continue to occur independently of the substance abuse." He concluded that early antisocial behavior is a forerunner of both drug abuse and crime, "challenging the assumption that drug use causes crime."

—Jacob Sullum

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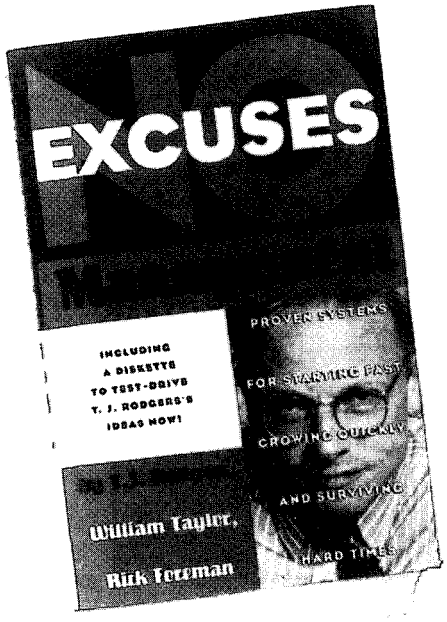

T.J. Rodgers started Cypress Semiconductor 10 years ago with one employee and one used computer. Since then, this remarkable company has grown to 1,200 employees, $300 million in sales - and a lot of computers.

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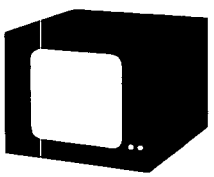
BALANCE SHEET

Assets

Healthy Choice. Pressure builds for the FDA to legalize over-the-counter sales of birth-control pills. Drug makers and health experts will request a meeting with regulators later this year to discuss the idea. (See Trends, June.) Researcher Michael Rosenberg tells the *Los Angeles Times* this change "would be a godsend for some women. To be freed from the expense and trouble of obtaining a prescription would be a tremendous convenience."



Wired. Cable reregulation, RIP? In Alexandria, Virginia, U.S. District Judge T. S. Ellis lets Bell Atlantic originate and offer cable programming in the same areas where it provides telephone service. Ellis says shutting out phone companies violates the First Amendment. Even if "telephone companies succeed in driving out all competition," writes Ellis, "the telephone companies would be in no better position to act uncompetitively...than are the current [cable] monopolies."

Easy Rider. Sen. Ben Nighthorse Campbell (D-Colo.) helps organize a rally against motorcycle-helmet laws. His state may lose millions of federal highway dollars if it doesn't pass a helmet law this year. Campbell defends the Iron Horse Motorcycle Rally, saying, "This is not about whether to wear a helmet, but whether you should be *forced* to wear one."

Going South? "America Is Here," boasts a sign in the São Paolo, Brazil, Radio Shack. Over the past decade, Brazil, with a gross domestic product twice that of Mexico, has cut import tariffs from 78 percent to 14 percent. *The New York Times* says U.S. exports to Brazil, which totaled $5.7 billion last year, have grown by 35 percent since 1988. And next March, Brazilians can buy American-built Ford Tauruses and Explorers and Chevy Luminas.

Liabilities

Static Inference. Forcing businesses to provide health coverage will cost plenty—3.1 million jobs, project Baruch College economists June and David O'Neill. Nearly two-thirds of the jobs will be lost from restaurants, retailing, and other service industries. Wait, says Clinton guru Ira Magaziner. The plan will take several years to phase in, he claims, giving businesses "a couple of years' notice." All the better to plan the layoffs.

Jamming Signals. Call it the Rush Limbaugh Unemployment Act. Reps. Ed Markey (D-Mass.) and John Dingell (D-Mich.) push to make the Fairness Doctrine law. Radio talk shows kept term limits, congressional pay raises, and the House bank and post office scandals alive after the Beltway press dismissed them. Forcing stations to give equal time to opposing views will silence grass-roots voices while keeping power-mad legislators re-elected for life.

Arms Banned. A task force appointed by Virginia Gov. Douglas Wilder lists a dozen guns it wants the legislature to ban. Included are semiautomatic pistols and rifles and shotguns with magazines that hold more than seven shells. Sen. Richard Saslaw, a gun-control advocate, tells *The Washington Post*, "If you want to protect yourself, get a pit bull."

Program Failure. Watch out, "competitiveness" fans. New Assistant Attorney General Anne Bingaman plans to revitalize antitrust prosecutions. Speaking before the American Bar Association, Bingaman declares war on "vertical" pricing arrangements—manufacturers that pressure dealers to limit discounts on their products. Manufacturers like, say, Microsoft, Bingaman's first target.

—Rick Henderson

Safer Sex

After unsuccessful attempts to stamp out prostitution, two California cities are looking at the merits of decriminalization.

Last year, the San Diego City Council, at the instigation of Council Member John Hartley, appointed a task force to study how best to combat prostitution. After a year of talking with community residents and experts, the task force is ready to make its recommendations, but Hartley and the rest of the City Council may be surprised at the results.

"If anything, I went into this project thinking, 'We've got to jail them and get tougher,' " says Dale Durbin, chairman of the San Diego Citywide Prostitution Task Force. Although the task force has not made a final decision on its recommendations, he expects one of them to be that the city appoint a new task force to look into decriminalization.

Durbin notes that the criminal status of prostitution may be responsible for putting sex workers on the street. And he says San Diego's law-enforcement resources are squandered on prostitution while crimes against people and property go unaddressed.

For some of the same reasons, San Francisco is creating a task force that will consider decriminalization as one possible policy for dealing with prostitution. "Prostitutes can be arrested twice in the same night," says Jean Paul Semahah, chief aide for City Supervisor Terence Halinan, who proposed the task force. "It's just not an effective and efficient way to deal with the problem." He says Halinan wants the task force to consider decriminalization but does not favor any one policy.

After decriminalization, Semahah says, prostitutes would no longer have to work on the street, where they offend tourists and drive away business. He also argues that decriminalization would improve the safety of prostitutes, noting that the "illegal nature of the activity creates an atmosphere that attracts other types of crime."

—Jacob Kramer

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Ted Nicholas encourages aspiring writer Bethany Waller

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America's Economic Refugees

By Glenn Garvin

In an overregulated economy, the best preparation for survival may be a Third World education.

Marta at work

Marta can still vividly recall the day, 22 years ago, when she drove across the border from Tijuana with her handsome new husband, headed for Los Angeles. She was no *mojado*—wet, as illegal Mexican immigrants invariably call themselves, whether they came across the Rio Grande or not—either in fact or in spirit. Her husband, though born in Mexico, was a U.S. citizen, and Marta came in through the front door, with a legal visa. And it didn't have anything to do with money, either. She had been doing all right in Tijuana, running a small factory that manufactured neon signs by day, working at a restaurant by night.

But her two little boys needed a dad. Their own father had disappeared into the Tijuana night a few years before, and Marta felt there ought to be a man around the house. Marta needed one, too. "That's what I thought, anyway," she says now, laughing.

That first day was exciting: marveling at all the new cars zipping along Interstate 5, the ranch-style homes visible from the freeway in Orange County, the mad agglomeration of fast-food restaurants and shopping strips as they entered Los Angeles. America, it seemed to Marta, fairly reeked of prosperity.

But it took only a few days for the glamour to wear off. Her husband informed her that his salary as the manager of a small

HOLLY FREEDMAN

aluminum-siding factory wouldn't cover the costs of sneakers, blue jeans, hamburgers, broken arms, and other matters associated with little boys. "Besides, they aren't my kids," he added. "They aren't my responsibility."

Marta was stunned. She had no working papers, few marketable skills, and she didn't speak a word of English. "What do you expect me to do?" she asked her husband. "You'll think of something," he replied.

Marta spent the next day hunting down friends from Ocotlán, the small city in western Mexico where she grew up. One of them, who sewed blouses at a downtown garment factory, told Marta the place was hiring and wouldn't ask any troubling questions about work permits. Like most garment manufacturers, the company paid by the piece: 12 cents for each completed blouse. A good worker, Marta's friend said, could sew about 200 of them in an eight-hour shift.

"So I took the job," Marta recounts. "I spent the next 15 years sewing. It paid really lousy, and it hurt my eyes. Oh, you don't know how we used to come out of there at the end of the day, out of those sweatshops. My back always felt broken, and my feet are permanently swollen now. My vision is strained."

So why did she do it? Marta looks faintly astonished at the question. "My kids were little," she says. "They needed clothes. They needed food. I didn't want them out in the streets. And without any English, who else would hire me?"

The hidden economy isn't such a secret. You can see it everyday. Nannies and cleaning ladies without green cards find work in every major city. Unlicensed street vendors hawk oranges on freeway exit ramps around Los Angeles. Minivans with no commercial permits roll out of Miami's Little Haiti every Sunday, carrying field hands back to the canefields where they work.

On that day in 1971, Marta stepped into what economists call the "informal" economy—the misty terrain where goods and services flow back and forth without government supervision. It has no minimum-wage laws, work permits, Social Security, worker's compensation, union shops, environmental-impact studies, unemployment benefits, or professional licenses. It certainly has no taxes.

Literary-minded social scientists like to refer to the informal economy as underground, subterranean, black, or hidden. The fact is, though, that with a very few exceptions it functions right out in the open. You can see it every day: The unlicensed street vendors who hawk oranges on freeway exit ramps throughout Los Angeles. The minivans with no commercial permits that roll out of Miami's Little Haiti every Sunday, carrying field hands back to the canefields where they work during the week. The men clustered around the corners of Route 7 and Glen Carlyn Drive, just outside Washington, D.C., in suburban Virginia, waiting for plumbers and carpet layers to stop with offers of a day's off-the-books labor.

Zoë Baird was able to find her way to the informal economy when she needed a nanny; Stephen Breyer went there for a cleaning lady. In fact, sometimes it takes a concerted effort *not* to see the informal economy. Every day around lunchtime, hundreds of unlicensed street vendors—nearly all of them illegal aliens—set up shop on Federal Plaza in lower Manhattan, right in front of the headquarters of the Immigration and Naturalization Service.

A better description of the informal economy might be *uncharted.* Because it exists largely on a cash basis, with little bookkeeping and almost no reporting, the informal sector resists virtually all economic mapping techniques. Like Saudi Arabia's Khali desert, we know it's out there and we know it's huge, but the exact dimensions are unknown and probably unknowable. The few attempts by government number crunchers to quantify it have produced wild disparities.

Back in 1985, for instance, California's Little Hoover Commission estimated that the state's informal economy generated $40 billion in annual transactions. But earlier this year, New York City Comptroller Elizabeth Holtzman claimed that the informal sector in her city alone is $54 billion annually, a whopping 20 percent of the city's economy.

Obviously these estimates must be taken with a truckload of salt. (How can *anyone* know that you gave a $20 bill to an undocumented Salvadoran last week to mow your lawn?) But they do offer a sense of just how vast the informal economy really is. Untold millions of Americans participate in it, from survivalist nut cases buying untraceable ammo with gold bars to white-collar barter groups where dentists and accountants swap services among themselves without going through IRS-approved accounting niceties. They come from every socioeconomic and ethnic corner of society.

But if most Americans take an occasional swim in the informal economy, there are some for whom it's a total immersion: immigrants. "There's no question about it, they're everywhere in the informal economy," says Jacqueline Leavitt, a professor of urban planning at the University of California, Los Angeles. "Sometimes you wonder if they work anywhere else."

They sew designer jeans in backstreet warehouses. They tend fastidious gardens on the elegant side of town. They sell fried plantains from their back porches. They drive rickety gypsy cabs. They tend children in makeshift home day-care centers. They vend cheap toys and exquisite hand-crafted jewelry on street corners. They wash dishes in steamy restaurant kitchens. They install drywall for unlicensed construction crews. They hustle painted velvet portraits of Elvis at flea markets. They repair cars in their driveways.

What links these seemingly disparate jobs is that government regulations make it difficult to do them legally, or the pay is low, or both. That makes them unattractive to many Americans. But

Third World immigrants simply don't care. Penurious employers and overbearing governments are nothing new to them.

"I was walking along Roosevelt Avenue in New York recently—that's in Jackson Heights, a heavily Hispanic area—and I saw a street vendor who was handing out leaflets," says Patricia Fernandez-Kelly, a Johns Hopkins sociologist who studies the informal economy. "I took one, and it was announcing a meeting of a new organization dedicated to stopping police harassment of vendors.

"I was a little surprised, because most of these vendors are illegal immigrants, and they usually keep a low profile. So I asked him, 'You don't have papers, do you?' I thought he was going to slap me. 'Papers?' he said. 'Who cares about that? We're just trying to stop the police from taking our goods and locking us up.'

"To him, cops are the bad guys. As a member of the international work force, he judges his right to work as a fundamental human right that no cop, and no state, can abridge."

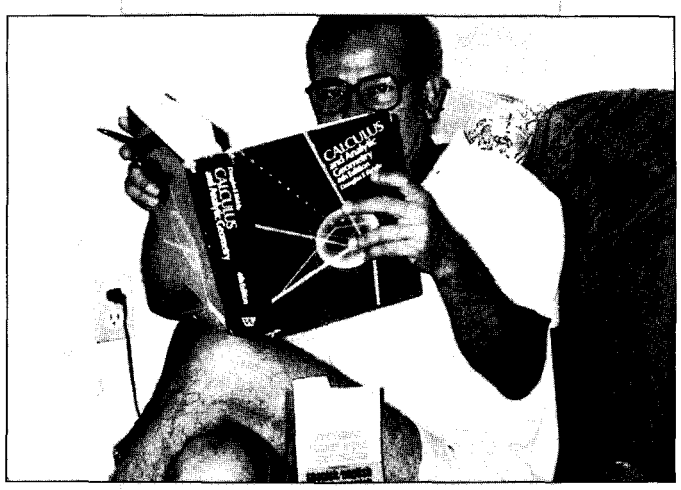
It's common to hear politicians and self-proclaimed ethnic leaders complain that immigrants are exploited. Some of them clearly are mistreated—cheated out of agreed-upon wages, denied medical care for on-the-job accidents, or even beaten by abusive employers. Almost inevitably that kind of abuse is directed at illegal aliens who cannot seek redress from a legal system that will expel them if it can lay its hands on them.

But abuse is a separate matter from low wages and unpleasant working conditions. Where politicians see exploitation, immigrants often see opportunity.

"The political figureheads have a lot different agenda than the people on the street," says Los Angeles business consultant José Legaspi, himself a Mexican immigrant. "The people on the street come from another country, and they want a job—any job. They may get minimum wage, or even less, but it's a lot more money than they've ever had before.

"All of the sudden they can have a nicer home than the one they left, a refrigerator—which maybe they never had before—and a clunky car—which no way could they ever have had. Then they start advancing, learning English, new job skills. Maybe they go to trade schools, or learn nursing or office work. Maybe only their children will be able to do that. But either way, it's better than it was in their country. In other countries, a lot of times, they would work for worse wages all their lives, and that's it. There's nothing to learn or no way to learn it.

"You can call some of these conditions exploitation, and maybe some of them are. But they give the immigrant a way to advance. Native-born American poor people, the ones who've been here three generations or more, a lot of them can't advance because they've bought into the welfare mentality—that the law entitles you to certain things, and you shouldn't work unless you can have them. By his willingness to accept lousy jobs—to be exploited, if you want to call it that—the immigrant is going to do better in the long run."



Math professor Miguel left Nicaragua to escape Marxist domination of higher education. Unable to teach legally in Miami, he demolishes drywall for unlicensed contractors. "Businesses need workers, and we want to work. But the government won't let us. It's a little contradictory, no?"

The most fundamental factor that sends so many immigrants to the informal economy is their legal status—or, more properly, their lack of it. Some 300,000 foreigners slip across U.S. borders each year, most of them looking for work. But the last round of immigration legislation, in 1986, required employers to demand proof of citizenship or a work permit before hiring, which has made it much more difficult for an illegal immigrant to hire on at, say, McDonald's. He's more likely to find work with an employer who shares his interest in staying out of sight of the authorities.

"We have to work practically in a clandestine manner," says Miguel, 45, who came to Miami last year from Nicaragua on a legitimate business visa that has long since expired. In Managua, he taught mathematics at the Polytechnic University. (He left because he was sick of the Marxist domination of higher education that persists in Nicaragua even after the Sandinistas' 1990 electoral defeat.) In Miami, he works in construction, demolishing drywall on renovation projects. He is bemused by his career change.

"There are advertisements in the newspapers for mathematics teachers at some of the [bilingual] high schools here," Miguel says, shaking a finger for emphasis. "I could do that job. But I can't get the permission. When I was much younger, I had experience as a cook at McDonald's in Managua. There's an advertisement in the newspaper for cooks at McDonald's here. But I can't get the permission....Businesses need workers, and we Nicaraguans want to work. But the government won't let us. It's a little contradictory, no? It's a vicious cycle, no?"

But Miguel's story illustrates more than the contradictions in American attitudes about immigration. It also demonstrates some of the complexities in the informal economy. Contrary to what you might expect, his job pays $4.25 to $5.00 an hour, depending on the project—that is, minimum wage or better. So if his boss is willing to pay legal wages, why does he hire illegal aliens? Because the whole company is illegal, operating without a

SUE MULLIN

contractor's license. And why is that? Because Dade County, though still in a construction boom as it repairs the damage done by last year's hurricane, makes it extremely difficult to get a contractor's license—a little protectionist hanky-panky between the county government and the big local construction firms, who didn't want to share their windfall with any newcomers.

The predictable result has been an explosion of unlicensed construction, fueled by the twin appetites of homeowners to get their houses repaired and Miami's huge immigrant population to work. "Even before the hurricane, there was a lot of unlicensed work," says Pepe Collado, an organizer for the United Brotherhood of Carpenters. "Now it's just ridiculous. I would say at least 60 percent of the construction work in Dade County is being done without licenses and permits."

Collado is not surprised at the way the informal economy dominates Miami's construction industry. He was there at the beginning, in the 1960s, when Cuban exiles fleeing Castro transformed the industry when it tried to thwart *their* desire to work. In fact, he was one of them.

"Native-born American poor people, the ones who've been here three generations or more, a lot of them can't advance because they've bought into the welfare mentality—that the law entitles you to certain things, and you shouldn't work unless you can have them. By his willingness to accept lousy jobs—to be exploited, if you want to call it that—the immigrant is going to do better in the long run."

"I was about 20, working in a furniture store, and I saw these ads in the paper for carpentry jobs on construction projects," he recalls. "It seemed like a good opportunity, so I went over to the carpenters' union. They told me I had to take a test. I paid 20 bucks, and they gave me this test that was completely in English. I only spoke a little bit of English, but I tried to fill it out.

"The guy came out of his office, took my paper, and went back inside. A minute later he comes out, tosses it at me, and says, 'You failed.' 'Where did I fall down?' I asked him. 'I don't have time for you,' he said, and walked away.

"I went home, but I kept seeing these ads. It was obvious they really needed people. So I went back again. They took another $20 from me, gave me another test in English, and failed me again. I couldn't believe it. I mean, nobody was interested in seeing whether I could do the *work*. It was like the test was just an instrument to keep me out.

"I had just recently gotten married to an American girl. And one night I was telling her father what had happened, and he said, 'Jeez, why didn't you tell me? I'm a member of the carpenters' union.' So I went back again, this time with my American father-in-law, and guess what? I was hired."

Most Cubans, however, weren't lucky enough to have a gringo patron inside Miami's potent trade unions. They were turned away by the thousands. "The unions really made an effort to exclude the Cubans," says Guillermo Grenier, a labor historian at Florida International University. "They did it in a variety of ways. The easiest was in the licensed trades, like plumbers and electricians, where they could manipulate the licensing exams. Then, with the unskilled people, they'd just say, 'We have no work for you.'

"They did the same thing with people who had been contractors in Cuba and wanted to open contracting businesses here. Because the unions were so powerful in Miami at that time—about 90 percent of construction was union—a contractor really had to work closely with the Miami Building and Construction Trades Council, the umbrella group for the various trade unions. And the unions just refused to have anything to do with Cuban contractors.

"The crazy thing was they were turning away people who were very pro-union. Pre-Castro Cuba had a very progressive labor movement. The 1940 Cuban constitution actively encouraged unionization. Most of these folks who they were sending away thought that working in construction was synonymous with joining a union."

The unions apparently thought the Cubans would just go away. They were wrong. "The informal market is always there," Grenier observes. "And immigrants are tenacious." The Cuban plumbers and electricians went to work without licenses; the Cuban contractors formed small companies that operated out of trucks. They took construction projects within their own community at cheaper rates and hired Cuban laborers for wages that were always below union scale and often below minimum wage. Overtime wages were unheard of. The contractors accepted off-the-books cash in payment and in turn paid their workers with cash.

As the flow of immigrants produced a building boom, it was the new and informal Cuban construction industry that flourished; the unions, and most of the firms allied with them, have withered away. Today more than 90 percent of new housing construction in Miami is done by Cuban firms.

"When the Cubans went informal, they destroyed construction unions," says Johns Hopkins sociologist Fernandez-Kelly. "But they created a hugely successful Cuban construction industry. And it was done, for all practical purposes, by violating the law."

Although Cubans own most of the construction firms now, many of their workers these days—particularly the unskilled ones—are, like Miguel the math-professor-turned-ballpeen-hammer-wielder, Nicaraguans. The Nicaraguan consulate estimates that more than 100,000 exiles are crammed into Miami, loath to return to a homeland still wracked by political turmoil and violence.

And there is every indication that the Nicaraguans intend to follow in the footsteps of the Cubans who came before them. Meet Ronald, 39, who came to Miami in 1986 after a Sandinista military commander accused him of counterrevolutionary sentiments and put a gun to his head. Now he runs a small construction business out of his truck.

Ronald has never incorporated; he doesn't advertise, his business isn't listed in the phone book, and he has no regular employees. Everything is done through what Nicaraguans call "connections," networks of friends and family. Work comes to him through word of mouth. If the job is too big to be handled by Ronald and his two teenage sons, he checks to see if any of his cousins, nephews, or in-laws need a few days' work at $60 to $70 a day. As a last resort he stops by the parking lot of a bait shop on Southwest 8th Street in Sweetwater, the little town in western Dade County that's the heart of the Nicaraguan exile community. The bait shop parking lot is the informal equivalent of a union hiring hall, with three dozen or so men hanging around at any given moment, waiting for offers of day labor.

Ronald couldn't join the formal economy even if he wanted to; he has no work permit, which means he has no Social Security number, which means he can't open a bank account or apply for the dozen or so permits necessary for any given construction project. (It's not clear that he's even legally permitted to have a driver's license.)

Shut out of construction unions, Cuban plumbers, electricians, and contractors went to work without licenses. "When the Cubans went informal, they destroyed construction unions," says Patricia Fernandez-Kelly of Johns Hopkins. "But they created a hugely successful Cuban construction industry. And it was done, for all practical purposes, by violating the law."

But the fact is that Ronald wouldn't bring his construction business into the formal economy even if he could. "It's much too expensive to do everything the correct way, the legal way," he admits. The cost of permits alone can inflate the price of a single home-repair project by as much as $10,000. Then there's what economists call "indirect wages" that would have to be paid for his employees: Social Security, unemployment insurance, and worker's compensation. (Worker's comp *alone* raises Miami construction payrolls by 39 percent.) And Ronald would probably have to hire someone just to do all the paperwork.

It is these costs (coupled with fierce union pressure) that have made the construction industry a fertile breeding ground for informal activity not just in Miami but throughout the United States. Saskia Sassen, who teaches architectural planning at Columbia University, surveyed construction sites in Manhattan and found that about 90 percent of interior work was being done without building permits.

Construction, however, is far from the only industry in the United States that is sinking under a snarl of taxes and red tape. A 1981 study by the New York State Bar Association found that the average business owner had to obtain 35 permits before opening his doors. Even something as simple as a small pizza parlor required 18 permits. "It's only changed for the worse in the years since," says Charles Heming, an attorney who helped conduct the study.

Many of the permits are disguised taxes, requiring nothing more than payment of a fee. (And it doesn't stop with the permits. There are 54 different state and city taxes levied on businesses in New York City.) But the study also found that 359 occupations—among them, boxing announcer and wrestling-match doorman—required licenses that could be obtained only through exams or an extensive educational program. Noted the report: "In many instances the restrictions appear to serve little purpose other than to protect persons currently engaging in an occupation from the competition of new entrants."

"New entrants," of course, will consist largely of the poor and powerless—those who because of their race, sex, or citizenship have been frozen out of the mainstream economy. In the peculiar logic of licensing, they aren't fit to *be* businessmen because they haven't *been* businessmen.

Just ask Ani Ebong, a Nigerian cab driver (well, make that *ex*-cab driver) in Denver. He came to the United States on a student visa in 1973 and tried several different jobs to put himself through college. He quickly settled on driving a cab.

"It's a good job for immigrants," Ebong explains. "All you have to know is how to drive, which most of us do, and how to get around the city, which is easy enough to learn. And it's flexible; you can set your own hours and fit them around being a student, so that you can take English classes or go to college."

Even after he got a degree in marketing, Ebong kept driving for Denver's Yellow Cab cooperative, saving money to open his own business. In 1990, he decided it was time to go into business for himself. Yellow Cab was teetering on the edge of bankruptcy and the drivers were split into acrimonious factions. And a court-appointed receiver was making changes in company policy that worked against newly arrived immigrants, which angered Ebong even though he personally would have been grandfathered into the new contract.

So with three other drivers—an Ethiopian, another Nigerian, and a native-born black American—Ebong announced he was opening his own cab company, Quick Pick Cabs. "I thought it was a good idea, not just for the other drivers, but for the whole community," he recalls ruefully. "There were so many drivers at Yellow Cab who were unhappy. And Denver only has three major cab companies, and they've gotten so fat and lazy. Half the time when you call a cab it doesn't come. I thought we could show them how business ought to be done."

Instead, the three major companies showed Ebong and his colleagues how business *is* done. To open Quick Pick Cabs, they would need a license from the Colorado Public Utilities Commission. The PUC had rejected every application for a competitive cab company since 1947, and Ebong and the other entrepreneurs quickly discovered why: The three majors all filed against the Quick Pick application. (If there was any doubt about how cozy

the majors had become with one another, it was laid to rest by their PUC filing; all three retained the same attorney.)

"Oh, man, you should have seen what we had to go through," Ebong exclaims. "It was lots of paperwork, tons of paperwork, a blizzard of paperwork. They said we had to prove a 'need' for a cab company, so we had to go all over Denver, knocking on doors, asking people to sign statements that they had called a cab but it didn't come. Then we found out we had to get the statements notarized, so we had to go back and ask all these people to drop their work and come with us to the notary.

"Then we had the hearing. We had to answer all these questions from the majors. Like, they asked us to present our five-year advertising plan for our new company. And they asked us for all the names of the people we would be hiring in the next 10 years. I think even if we were IBM we couldn't have answered that. Does IBM know the name of every person it's going to hire in 1997?"

Ani Ebong (2nd from left): "When we tried to open a cab company, they used the legal system to stifle us, just like you would do it in Iran or Iraq or Nigeria. It's a clique. The whole system is like a nutshell, and you can't break into it. It's just like a poor Third World country."

Last November the Quick Pick application was denied. Ebong and the others have all taken different jobs; by challenging the Denver cab cartel, they effectively blacklisted themselves.

"When I first came to the United States, I was so happy," Ebong muses. "I had friends from school who went to other countries, and they had so much trouble getting jobs. If you try many other countries, you find out you can't even be a janitor. That's when you find out this is the land of opportunity. That's when you find out America is very different than other countries....

"But then when we tried to open a cab company, they used the legal system to stifle us, just like you would do it in Iran or Iraq or Nigeria. The regime at Yellow Cab, the PUC—it's exactly like Nigeria....It's a clique. The whole system is like a nutshell, and you can't break into it. It's just like a poor Third World country.

"Do you know the country of Mali? It's a poor little dictatorship in West Africa. In Mali, there is just one highway, and it runs from the presidential palace to the airport. Sometimes now we joke that the legal system here runs only one way, from Yellow Cab through the PUC. It *typifies* an oppressive little Third World country, the way they run it."

The comparison to the Third World is an apt one. One reason that immigrants are so willing to ignore the vast U.S. taxation-and-regulation bureaucracy—and are so adept at outwitting it—is that they've already learned to do it in their own countries. In most Third World countries, economic activity is regulated to the point of proscription. The practice reaches its apex in Marxist regimes. In Sandinista Nicaragua, for instance, the government drew up a chart of 32 wage categories and divided every single job in the country among them, then created a Promethean enforcement apparatus to put it into effect. The wage rates were adjusted infrequently, even when Nicaragua's annual inflation rate reached 10,000 percent. Eventually nearly every private employer or worker in Nicaragua was defying the law.

But the picture is only marginally better in Third World countries billing themselves as capitalist democracies. In *The Other Path*, his classic work on Peru, economist Hernando De Soto described how his researchers set up various small businesses in Lima while observing the letter of the law.

To open the doors of a small, single-proprietor garment factory took 289 days and cost more than $1,200—32 times the monthly minimum living wage. (The researchers were solicited for 10 bribes during the process and actually paid two when it appeared there was no other way out.) Opening a small store took 43 days and about $600. To operate a single van as minibus required 26 months. Approval to develop land took 28 months, and then actually obtaining the building permits took another 12. Small wonder that half the Peruvian work force has joined the informal economy, generating 40 percent of GDP.

So when Third World immigrants come to the United States, they are well-schooled in thwarting economic regulations, even those supposedly designed to protect them. "In countries like Mexico, where you have formal regulation of activity, including a very progressive labor code that came out of the Mexican revolution, people become particularly adept at bypassing those regulations," says sociologist Fernandez-Kelly, herself a Mexican immigrant. "They certainly are going to do the same thing here.

"Their perspective is not of one of deliberate attempts to break the law. Their perspective is one of, 'What do I have to do to survive and support my family? I don't mind selling ice cream in the street or cooking food at home and selling it on the corner if that's what is necessary to pull myself up by the bootstraps.'...Immigrants all think they're going to be the next Donald Trump, even when there's plenty of evidence that their belief is not warranted."

Those would-be Trumps can be seen all over Los Angeles, despite the fact that most forms of street vending are flat-out illegal. You can buy just about anything from a vendor: lobsters, avocados, oriental rugs, plaster-of-Paris busts of Cleopatra and

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Beethoven, leopard-skin patterned seat covers, plastic skateboards, peanuts, hair ribbons, pantyhose, mangoes, fried fish with onions and chilies, cow skulls.

Cow skulls? "I wouldn't say it's a broad market, but it's pretty high end," says one vendor with a shrug. "For a crummy one, you can get $50, and the good ones go for several hundred dollars....They sell to yuppies with odd tastes in interior decorating."

The vendors work throughout Los Angeles, but they're most noticeable in Boyle Heights, Pico-Union, Westlake, and other neighborhoods where Latin American immigrants have settled in large numbers. On some blocks there may be as many as two or three dozen vendors, converting the streets into de facto open-air markets.

One of those vendors is Marta, the Mexican woman who came to Los Angeles in 1971 with a new husband who turned out to be considerably less gallant in marriage than he had been in courtship. It may not surprise you to learn that he ran off without warning 15 years into their marriage, sticking Marta with huge utility and phone bills. She knew she couldn't survive alone on her $3.00-an-hour job at the garment factory.

"I didn't have money, I didn't have anything," she remembers. "But I had seen these street vendors, and I thought, 'I could do that. I know how to make tamales.' So I sold all my jewelry for $50. I bought some *masa* [fine cornmeal], some corn husks, pork, cheese, chiles, and lard. I went to the convention center, where they were having a car show, and I called out to people that I was selling tamales for 75 cents apiece. And it went very well. At the end of the day I had $200 in my pocket. And I never went back to the garment factory."

For the last seven years, Marta has spent her weekdays making tamales, selling them to neighbors who stop by the house. On weekends she goes to a plaza near Our Lady Queen of Angels Church, one of the most popular areas for vendors. "Saturdays, it depends," she says. "But Sundays, I make about $300 easy. Before the recession, I was making $600 on Sundays. I was so busy that I had to bring my niece from Mexico to help me."

The niece is now attending cosmetology school on her savings from the tamale sales. Meanwhile, Marta has not only successfully raised her two boys—they're grown-ups with families of their own—but saved enough money to take a vacation to Italy a couple of years ago. Though she long ago got a work permit, at age 57 she has no plans to seek a job in the formal marketplace.

"I like to sell," she says. "I'm out with people, I can chat with them. I have a lot of clients, and they come to see me every weekend. They're sad if I'm not there selling."

A survey by the Coalition for Women's Economic Development pegged the average street vendor's daily profits between $10 and $40. But a few vendors do take a stab at becoming the next Donald Trump. John Ortega, who owns the 500-store Clothestime women's-wear chain, got his start as a vendor. So did Juan Corona, a multi-millionaire who owns Los Angeles–area restaurants and several clothing stores.

That's not to say she wouldn't appreciate legal status for vendors. Life as an economic outlaw is a constant hassle.

"You have to watch out for the police," she says. "They don't always make trouble for us. But sometimes they do. They've taken my food, thrown it away. One day I bought a $125 urn so that I could branch out a little bit, offer my customers a chocolate drink. I bought it on a Friday. On Saturday the police took it. I was sad, but what can you do?

"Nobody's ever hit me or taken me to jail, because when they tell me, 'That's against the law,' I always look timid and say, 'Oh, OK, I'll leave.' But I've seen a lot of other people mistreated. I know I've been lucky."

Attempts to legalize street vending in Los Angeles have met violent opposition from forces who don't even make a pretense about their motivations. "We're getting to be a Third World country," Gertrude Schwab, one of the most vocal opponents of vending, told the *Los Angeles Times*. "It's nasty. It's not clean. ...They set up outside like a fruit market. They're selling pillows on a stick. They're going door to door selling tamales. It's disgusting."

And even if the vendors' allies manage to slip a compromise proposal through the Los Angeles City Council, it's unlikely that many of the vendors would comply with the requirement to get licenses. One of the principal attractions of vending is that it requires little start-up capital. (Marta, remember, started with $50, and some vendors launch their enterprise with as little as $10.) But the ordinance under consideration by the City Council would require a hot-dog vendor to buy nearly $1,000 worth of permits, plus a special cart that costs between $1,000 and $2,000.

Most vendors don't do as well as Marta. A survey last year by the Coalition for Women's Economic Development pegged average daily profits between $18 and $40. But it's also clear that a few vendors *do* take a stab at becoming the next Donald Trump. John Ortega, who owns the 500-store Clothestime women's-wear chain, got his start as a street vendor selling clothes in the mid-1970s. Juan Corona, a multi-millionaire who owns Los Angeles-area restaurants and several clothing stores, also started out as a clothing vendor.

"Not everybody is going to do that well, not by a long shot," says business consultant Legaspi. "But don't sell these guys short—vending is a real business and they have real entrepreneurial skills. It takes an eye for merchandise; a mango vendor learns to cut the mango just so to look appealing. And they learn how to treat the customer, how to sell the customer. They sell mostly to fellow members of their ethnic group, so they understand what products the market wants and how to sell them.

"I've seen a lot more sophisticated merchandising among vendors than I have with anyone else. These people may not even

know the techniques they're using—it could all be sort of unconscious—but it's effective. They catch your eye by carving the fruit very artistically. Or, as somebody approaches, they squeeze a lemon onto the fruit. When I smell that, I just start salivating."

Many successful vendors graduate from the street into the bazaars known variously as swap meets or flea markets, the collections of stalls located in old warehouses or former drive-in movie lots. For suburban America, the swap meets are places to take some old junk from your garage to sell while buying someone else's old junk. But in communities with large immigrant populations, swap meets have become a poor man's shopping mall.

"If you go to the swap meets in East Los Angeles, you'll see very little used merchandise," says Daniel Morales, who runs the 21st Century Business Clinic for minority entrepreneurs. "Most of the merchandise is very cheap, but it's new. These things are very immigrant-oriented. In Asia and Latin America, this is how people do business—they use a big central market. It's a concept that's not familiar to Anglo-Americans."

Stalls at Los Angeles swap meets rent for about $7.00 a square foot—about the same price as space in mid-tier shopping malls. "But in a swap meet you can start small, with maybe 100 square feet," points out Morales. "In a mall you're going to have take a couple of thousand square feet at the minimum. And the mall is going to want a year's lease with two or three months' deposit, plus financial statements, plus documents that show you're a legal resident. The swap meet doesn't require any of that."

The swap meets also don't care whether stall operators have business permits—a good thing, since almost none of them do. Because the city requires advance payments of sales tax from some merchants, permits for a small shop can easily cost $600 or more.

Some swap-meet merchants become mini-magnates, operating chains of stalls in several different flea markets. "One of my clients is a guy who sells cassettes of Mexican music," says Morales. "Every time I turn around he's expanding. He has at least six stalls operating now."

The involvement of immigrants in the informal economy has spawned a growing, and quite paradoxical, body of academic literature. Most of it is written by sociologists and anthropologists who spend untold hours among the immigrants, painstakingly documenting the regulatory roadblocks that send them into the informal economy. Then, almost inevitably, they suggest that the answer to the problem is more regulation.

Sociologist Fernandez-Kelly, herself a believer in protective regulation, acknowledges the contradiction. "One of the constant pains to left-of-center observers is that conditions you would consider to be close to unacceptable are considered rather desirable to immigrants," she admits. "I spent a good deal of time researching the *maquiladora* industry along the Mexican border. I got a job as a seamstress, to see with my own eyes what it was like, and I also interviewed 500 women.

"I would get there at 6:30 a.m., walking into this noisy, smoky factory, feeling—like an enlightened liberal—that there must be a better way," says one researcher. "I'd be talking to some 17-year-old girl who's already been working there for three years, and I'd ask—hoping the answer would be the one my ears want to hear—how do you like your job? And she says, 'I love it! I want to keep working here forever!'"

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It is, however, a common answer. Many immigrants who labor for less than the minimum wage can be surprisingly blunt in acknowledging that their labor isn't worth very much. Says Ana Maria, a Salvadoran immigrant who works in a Los Angeles garment sweatshop at a piecework rate that averages out to a little more than $3.00 an hour: "Who else would hire me? I don't speak English. I'm not educated. All I can do is work hard."

Ana Maria will not go so far as to say she loves the garment factory, but it's better than some jobs she's had since coming to America. In 1987, shortly after crossing the border at Tijuana (illegally, though she's since received refugee status and working papers), she got a live-in domestic job in the Los Angeles suburbs, working in the homes of two American brothers and their wives.

"Sewing is very nice compared to that," she affirms. "I worked around the clock, from 5:30 in the morning until 1:00 the next morning. I had to clean and take care of their children. They were supposed to pay me $100 a week, but a lot of times they only gave me $50. And they were supposed to give me meals, but a lot of times they didn't do it. Then, when I had been working there a year, I got a high fever. And the lady put me out on the street with my things."

Now Ana Maria and her husband both work in the garment trade. Between the two of them, they make $200 to $300 a week. They share a one-bedroom apartment with two other Salvadoran sweatshop workers, splitting the $550 rent. They can't afford cable television or many frills (except for regular calls home—their share of the telephone bill usually approaches $150 a month) but they live better than they did in San Salvador. Every few months they have enough left over to send $50 or $100 back home to their parents.

"It can be hard here, but I knew what I was doing when I came," Ana Maria says matter-of-factly. "As long as they don't

throw us out, we're staying in the United States."

If liberals want to save immigrants from exploitation, many conservatives want to save the American economy by eliminating some of its hardest workers. There's a growing nativist faction in the Republican Party that calls for a crackdown on illegal immigration.

One of the latest converts is California Gov. Pete Wilson, who recently began lobbying the federal government for a package of anti-immigrant measures, including beefed-up patrols on the Mexican border and denial of citizenship to American-born children of illegal aliens. "If we ignore the flood of illegal immigration coming to America, we'll erode the quality of life for all those who live here legally," Wilson declared in introducing his proposal.

To argue his case, he recited a list of services the state must provide to the immigrants (mostly, actually, to their children). Unsurprisingly, he didn't mention all the taxes they pay, some directly—like sales and excise taxes—and some indirectly—like the gasoline taxes that are lumped into the price of goods shipped by truck, or property taxes embedded in rent payments. Even more significantly, since poor immigrants, like poor natives, pay less in taxes than more affluent people, Wilson showed little interest in immigrants' contributions to wealth creation in the private sector.

"It's much too expensive to do everything the correct way, the legal way," admits Ronald, a Nicaraguan immigrant who runs a small construction business out of his truck. The costs of permits alone can inflate the price of a single home-repair project by as much as $10,000. Then there's Social Security, unemployment insurance, and worker's comp. Ronald would probably have to hire somebody just to do the paperwork.

Anti-immigrant paranoia is usually highest among those with the most fleeting contact with the immigrants. Most people who actually work with them feel quite differently.

"I believe very strongly that the immigrant brings a lot more benefits to us economically than what he takes out," says business consultant Legaspi. "A lot of them who work with false IDs actually pay *more* than they should. They forget to file for their income-tax refund, or they do it incorrectly, or because of their fear of institutions they won't even try. At the same time they are the ones really taking the low-rung jobs that no one else wants but really keep the economy cranking.

"And you know something else? I think they're the ones who are going to keep urban America together. Third World immigrants tend to have an extended family with very cohesive family values."

The phrase "family values" doesn't ring a bell with Marcelina, who as Legaspi speaks is trimming excess cloth from a pair of pants in a sweatshop on Santee Street in downtown Los Angeles. She never learned to read or write Spanish, and English has proven completely beyond her during her seven years in Los Angeles. So most American political discourse is meaningless to her; but then, she didn't come here for politics. She came here to work.

Marcelina was 40 when she left the tiny farming village of Guerrero in southwestern Mexico, not an age at which most people want to start a new life 1,100 miles away. Some of her neighbors were scandalized. Who would take care of Marcelina's father, already in his mid-80s and not capable of working much longer? But her father understood.

"I want you to go," he told her. "It's easier to find work there. It will be a better life for you."

So Marcelina went, leaving her six children with her father. She got the job trimming pants—10 cents a pair, 20 pairs an hour, 160 a day, 800 a week, giving her an annual income of $4,160. Most Americans would say that's not a living wage, but Marcelina lived and even saved. After three years she was able to send enough money home to bring four of her children to Los Angeles; the other two followed a year later. Three of them are adults now, living on their own, and Marcelina and the remaining three share a one-bedroom apartment with two other couples.

Earlier this year, Marcelina got word that her father was ill. She took her $600 savings and returned to Guerrero to see him. But she didn't take the children. "I knew I was coming back," she says. "There's still no work in Mexico. Maybe in a few years, when the children are grown, I might go back. I might."

When her father's health improved, Marcelina got a ride to Tijuana with one of the car services that shuttle Mexicans between the interior and the border. She climbed into the rocky hills on the outskirts of the city and began the all-night hike toward the lights of San Ysidro, the ramshackle little town on the American side of the border. But Marcelina is not as nimble as she was the first time she crossed the border seven years ago. This time the Border Patrol caught her. They jailed her for five hours, then dumped her back in Tijuana.

Marcelina waited patiently until night fell again. She climbed back into the hills. And this time she made it across.

A stolid peasant woman, naturally suspicious of strangers, Marcelina rarely speaks and almost never lets her expression betray her real thoughts. But, told that the governor of California wants to increase patrols to keep immigrants out, she cackles out loud.

"Keep us out? How is he going to do that?" she asks. "And why would he want to? Who is going to do our work?"

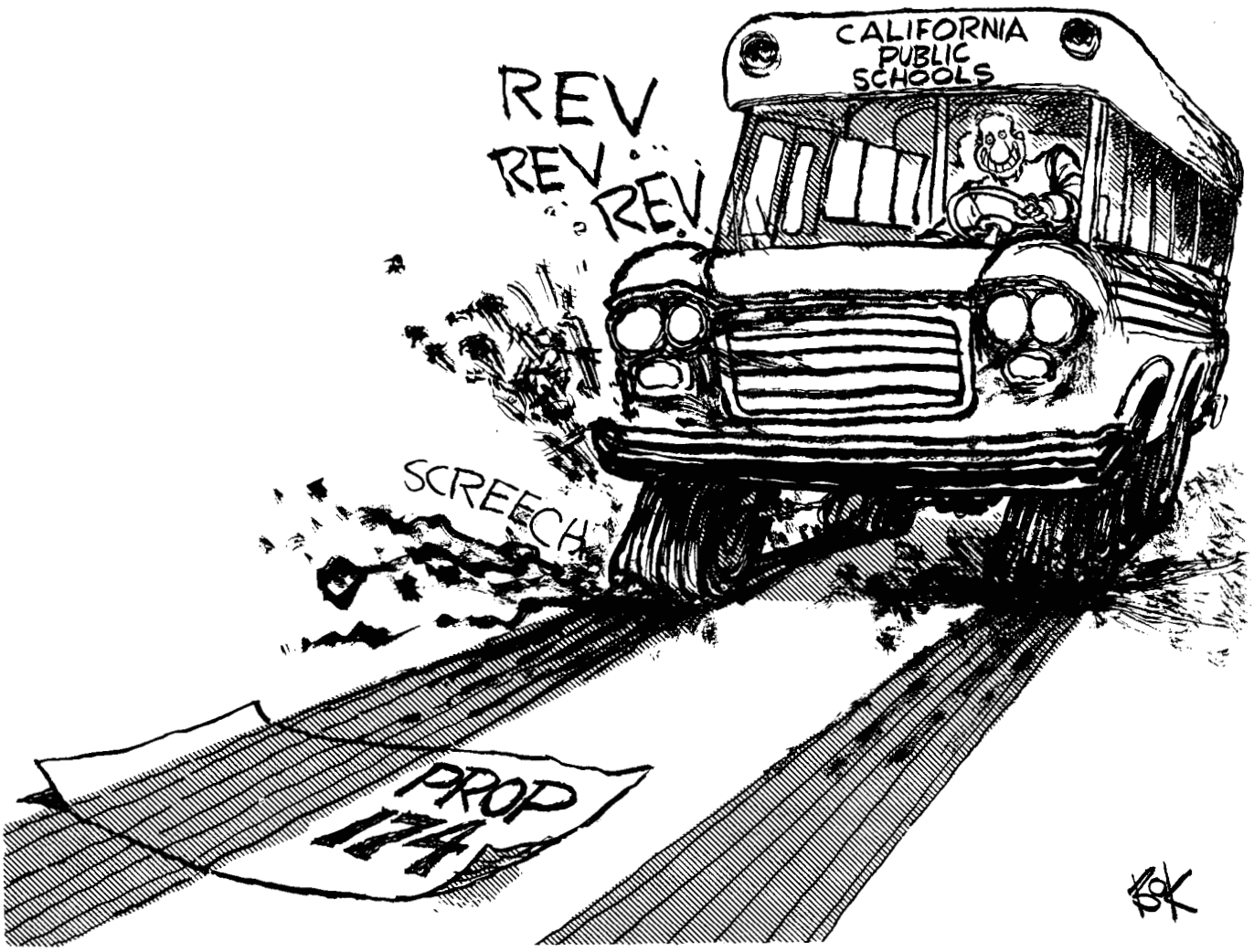
Contributing Editor Glenn Garvin is a writer in Miami and the author of Everybody Had His Own Gringo: The CIA and the Contras *(Brassey's).*

SUE MULLIN

Getting an Education

With a big test coming up in November, the school-choice movement is learning from its mistakes.

By Tim W. Ferguson



CHIP BOK

"Think of it as the Thirty Years' War," says Oregon's Martin Buchanan of the national fight for school choice. And there is more than a durational likeness to Europe's 17th-century sectarian conflict. The public schools are America's official religion, an obligatory presence in every burg and hamlet. Attacks on them will be repulsed with heavy casualties, as Buchanan, a Portland-based writer of computer manuals, knows. The first statewide voucher initiative he drafted lost by more than 2-to-1 at the polls in 1990, and he is fatalistic about the second try, due next year.

Fatalism is also a good attitude to have about the choice initiative on California's November 2 special-election ballot. The most prominent attempt yet to allocate tax money to households instead of school districts so that everyone can enjoy reasonable alternatives to the government's Brand X, Proposition 174 is under withering bombardment from the education establishment. Early polls were

favorable, but a mid-August Field poll found the initiative opposed by a 46-36 plurality. And the history of these initiatives—indeed, of citizen-placed ballot measures generally—is that they succumb to landslides once the other side unleashes its counterattack.

The school-choice movement has never won an election. It has scored victories—the state of Wisconsin agreed to let parents in some poor parts of Milwaukee choose private schools, and variations of choice among public schools are gaining approval around the country—but never a straight-out endorsement at the polls. The only thing close to a win for private schools—a 54-percent-to-46-percent OK for textbook loans in heavily Lutheran South Dakota in 1986—is set off against 19 losses, most of them lopsided, since 1966.

His experiences with public schools convinced Safi Qureshey, CEO of AST Research, that the "system is incentivized in the wrong way."

Most of these were forms of "parochiaid," a stopgap for keeping strapped religious schools from folding. Some opponents of choice, still obsessing on the religious question, see the current-generation proposals in the same light. But in fact they have a far more secular origin. An amalgam of libertarians, neoconservatives, business executives—and, yes, some church-school partisans, though they've rarely been leaders—has sought to challenge the ideological and pedagogical orientations of contemporary public schools.

Intellectual and political stirrings that go back to the school-prayer decision and the fights over busing, sex education, phonics, and the "3-Rs" underlie the confrontation in California. They have been given a cutting edge by concern about guns and gangs, condoms and bilingualism, and hard-sell "political correctness" on other classroom fronts, ranging from recycling to the rainbow of diversity. Through it all, the battle for the schools and now for choice has been for the prerogatives of parents and against progressivism, credentialism, teacher unionism, administrative bloat, and, ultimately, declining academic results. The original grassroots right has been supplemented by William Bennett and Jack Kemp and some prominent fellows at the Hoover Institution, for whom a change in the centralized, bureaucratic system has both social and economic significance. They know that a victory for radical change in the nation's largest state would have stunning effect.

Even with this heady heritage, California voucher proponents have carried only a grim optimism into the fall campaign. The recent plebiscites have been so discouraging—the Oregon loss and a similar setback in Colorado in 1992—that trepidation is in order. But win or lose, the issue isn't going away, and it clearly is preoccupying the other side, the education apparatus at every level.

The education establishment has begun to make concessions, the foremost being "charter schools," or independently run campuses within a district. Choice among public schools, at least within a district, is nearly a reflexive concession. Unionized teachers may even consent to giving principals authority at ordinary schools. Like Norman Thomas, the perennial Socialist candidate for president in the first half of this century, choice is losing elections but advancing an agenda.

The California fight is paradigmatic of what voucher supporters can expect. The campaign was moved up to this fall by Gov. Pete Wilson, who called a special election on ballot measures, including one he is sponsoring that would raise sales taxes to benefit local governments. The governor has no use for the California Teachers Association but, like most of his big-business backers, he considers the school-choice measure a piping hot potato, one he would probably prefer to have off the political plate before running for re-election in a year.

Architects of Prop. 174 were caught underfunded for the early election, even though they had originally sought a November 1992 ballot placement. By early August, they'd raised only $1 million of the $5 million they had projected. The teachers unions, state and national, were in a position to outspend them by several times.

A half dozen entrepreneurial executives, including Joseph Alibrandi of Whittaker Corp., the motivating force behind the initiative, supplied most of the early capital. The biggest donor, through a corporate veil, has been Howard Ahmanson Jr., son of the late chairman of Home Savings of America and in recent years a major bankroller of conservative legislative candidates.

But another kind of supporter is Safi Qureshey, founding CEO of AST Research, now one of America's biggest personal-computer makers. Pakistani-born Qureshey believes there's "got to be minority community support" for the idea to have merit. Learning of the struggles of Polly Williams, the Afrocentrist who won a place for choice in Milwaukee, convinced him there was. His own family's experience confirmed his despair about the existing system even in the upscale community of Irvine, where he lives: When a son wanted to try a nearby public school, his parents agreed but soon found he was drifting academically; the Quresheys quickly put him back in private school.

At one point, before the Qureshey children accompanied their parents on a week-long trip, the family inquired about what homework might be taken along. The public school, says the AST chief, was interested only in getting him to sign a document that would maintain its attendance capitation from the state. "This system is incentivized in the wrong way," he says.

Outside of this early handful of business backers, the corporate community has been standoffish. This surprised and disappointed Alibrandi, who spoke last year of the encouragement he was getting from major executives he

AST RESEARCH

thought would be behind him in the clutch. Instead, when a few months ago he addressed the California Business Roundtable (whose school-reform panel he had chaired prior to launching the voucher drive), they nodded their heads as he made the case for competition and then voted to stay neutral. Same with the California Manufacturers Association.

For some, the latest promise to remake the public schools is always sufficient to merit a few more years' grace. Business leaders want to appear to be good citizens and community leaders. For others, fear of controversy or worse is the prime consideration. "There's such a tremendously powerful grip that the unions and the bureaucracy have on the legislature," says Alibrandi, that executives are "reluctant to put their companies in a position" where they might be punished for an association with the initiative.

That hesitance extends to otherwise bold academics. Guilbert Hentschke, dean of the University of Southern California's School of Education, asked Alibrandi to take his name off letterhead for the initiative campaign after "all hell broke loose." Educationists made clear that the school risked losing grants from public agencies over which they held sway because of the dean's overt sympathies.

Hentschke says he is interested in a range of options for "private provision of public services" but that "in these days of emotion, the fine points of a position get lost entirely." Nevertheless, he continues to meet with nearly 50 school superintendents in the state who share his interests, although in some cases their fascination with "private provision" extends only to seeking leverage in bargaining with their employees.

The Prop. 174 campaign got a boost when Ken Khachigian, a veteran of successful Republican campaigns who just missed last November with Bruce Herschensohn's Senate candidacy in California, signed on as chief strategist. This reassured some skeptics that the effort would not be "amateur hour," but statewide political figures, such as Gov. Wilson, remained opposed or distant. Tom Campbell, a former GOP congressman and Herschensohn's bitter primary rival in 1992, initially endorsed the measure and then danced away from it as he campaigned for a legislative vacancy and weighed a challenge to Wilson next year. (Campbell cited new fiscal considerations stemming from a reinterpretation of when the voucher would kick in. But his switch to opposition led Milton Friedman, one of his mentors and a choice enthusiast, to divorce himself publicly from Campbell's political bid.)

What might be more surprising than the disengagement of prominent figures is the silence or even criticism from private-school groups. The California Association of Independent Schools, its tone set by the blueblood academies, opposes Prop. 174, saying it favors "choice" but not at the expense of public schools (whatever that means), and besides, the $2,600 voucher the plan entails wouldn't pay the bill at *their* schools and they are full anyway. The largest body of Christian schools is merely "watching" the fight, and the Catholic schools are being discreet. So, although many private schools have permitted initiative sponsors to reach parents under their auspices, they do not promise to deliver legions to the polls. Half a million youngsters attend private schools in California.

In its objections, the private-school hierarchy seems as oblivious as many others to the kind of innovative teaching situations that might be created out of sheer energy in empty offices or commercial structures once a meaningful mass-consumer market existed. Supporters of Prop. 174 argue that 70 percent of California's existing private schools charge less than the voucher amount, although most of those are run by Catholic dioceses.

Whittaker Corp.'s Joseph Alibrandi has been disappointed by business leaders who, afraid of controversy, back off from supporting vouchers.

Thomas Tancredo, who is about to undertake his second Colorado voucher campaign, bluntly says, "Private schools are just as afraid of competition as the public schools. That's an important thing for people doing this to realize. [Established academies] have pretty much a lock on this. They have a couple of hundred kids on a waiting list."

An easier-to-swallow protest from some private-school friends is that state regulation inevitably will follow the vouchers. Llewellyn Rockwell, head of the Ludwig von Mises Institute, used a Sunday op-ed space in the *Los Angeles Times* to vent this and other fears from the right, opening up a second front against the initiative. Drafters of Prop. 174 included language intended to block additional encroachment by the state, but as Rockwell drummed home, courts could use other passages to gain leverage. Still, private schools would always have the option of refusing vouchers and, presumably, whatever baggage comes with them.

Another battle in the choice war is for the moral high ground that comes with support from inner-city residents. After all, it is their schools that are teaching the least, and it is that failure that most endangers the larger community. That can be sensed idealistically, as AST's Qureshey does, or strictly on pragmatic grounds. But support for choice from those with the most directly at stake has been spotty. Polly Williams has been unusual among prominent minority voices and was ostracized by liberal Democrats for her apostasy. Roy Innis of CORE is another backer, but he has long been dismissed as a civil-rights maverick.

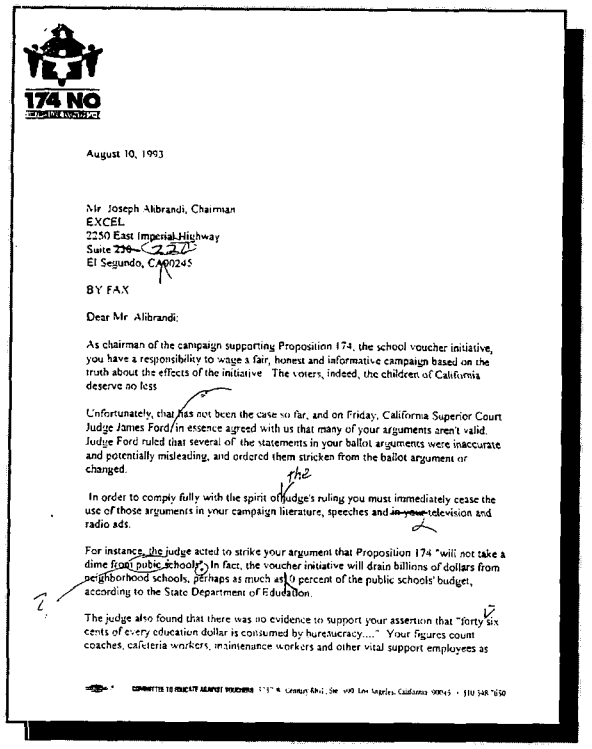
This suggests a disconnect from constituent interests. Although the voting outcome in Oregon in 1990 didn't con-

JONATHAN NOUROK

Anti-Choice Follies

On August 10, the Committee to Educate Against Vouchers faxed a warning to promoters of Prop. 174, California's school-choice initiative. The message referred to pro-voucher radio and TV ads and demanded that they "cease" making certain statements. The trouble is, the pro-choice side hadn't yet produced any TV or radio material. Further, the CEAV letter contained 17 typographical errors including a reference to "pubic schools." Pro-choice strategist Ken Khachigian sent the letter back, fully corrected, with the note: "Do you wonder, now, why the School Choice Initiative has so much support?" Below are copies of the original letter, as corrected by Khachigian, and his reply.

—K. L. Billingsley



174 NO

August 10, 1993

Mr. Joseph Alibrandi, Chairman
EXCEL
2250 East Imperial Highway
Suite ~~220~~ 220
El Segundo, CA 90245

BY FAX

Dear Mr. Alibrandi:

As chairman of the campaign supporting Proposition 174, the school voucher initiative, you have a responsibility to wage a fair, honest and informative campaign based on the truth about the effects of the initiative. The voters, indeed, the children of California deserve no less.

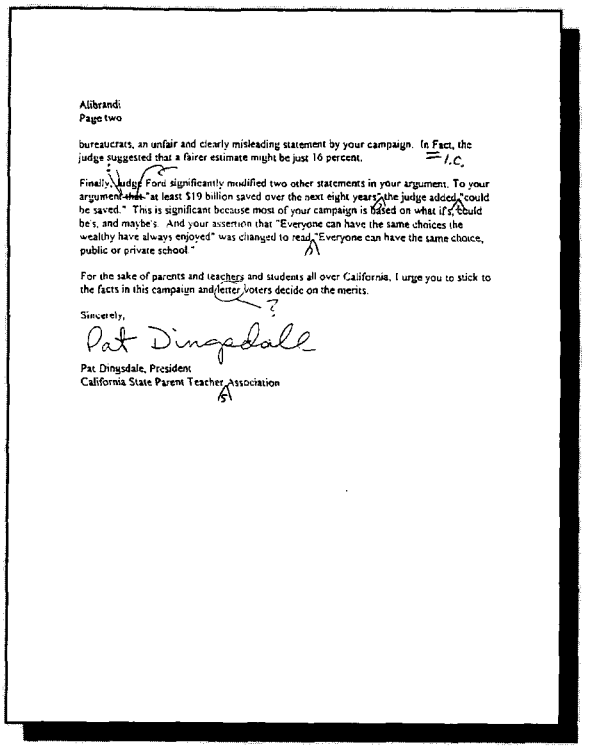
Unfortunately, that has not been the case so far, and on Friday, California Superior Court Judge James Ford in essence agreed with us that many of your arguments aren't valid. Judge Ford ruled that several of the statements in your ballot arguments were inaccurate and potentially misleading, and ordered them stricken from the ballot argument or changed.

In order to comply fully with the spirit of the judge's ruling you must immediately cease the use of those arguments in your campaign literature, speeches and ~~in your~~ television and radio ads.

For instance, the judge acted to strike your argument that Proposition 174 "will not take a dime from pubic schools." In fact, the voucher initiative will drain billions of dollars from neighborhood schools, perhaps as much as 10 percent of the public schools' budget, according to the State Department of Education.

The judge also found that there was no evidence to support your assertion that "forty six cents of every education dollar is consumed by bureaucracy...." Your figures count coaches, cafeteria workers, maintenance workers and other vital support employees as

COMMITTEE TO EDUCATE AGAINST VOUCHERS 1717 S. Century Blvd., Ste. 900 Los Angeles, California 90045 • 310 548-1050



Alibrandi
Page two

bureaucrats, an unfair and clearly misleading statement by your campaign. In Fact, the judge suggested that a fairer estimate might be just 16 percent. =I.C.

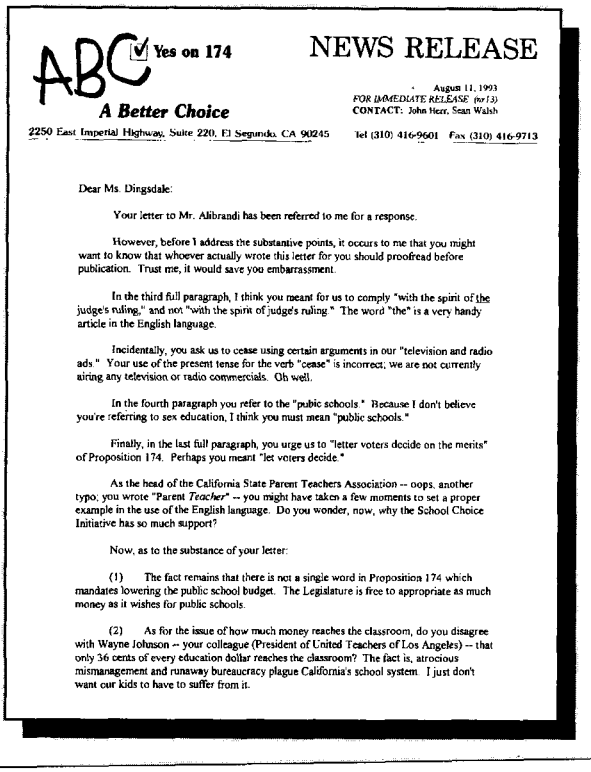
Finally, Judge Ford significantly modified two other statements in your argument. To your argument that "at least $19 billion saved over the next eight years," the judge added "could be saved." This is significant because most of your campaign is based on what if's, could be's, and maybe's. And your assertion that "Everyone can have the same choices the wealthy have always enjoyed" was changed to read "Everyone can have the same choice, public or private school."

For the sake of parents and teachers and students all over California, I urge you to stick to the facts in this campaign and letter voters decide on the merits.

Sincerely,

Pat Dingsdale

Pat Dingsdale, President
California State Parent Teacher Association



ABC Yes on 174
A Better Choice
2250 East Imperial Highway, Suite 220, El Segundo, CA 90245

NEWS RELEASE

August 11, 1993
FOR IMMEDIATE RELEASE (for 13)
CONTACT: John Herr, Sean Walsh
Tel (310) 416-9601 Fax (310) 416-9713

Dear Ms. Dingsdale:

Your letter to Mr. Alibrandi has been referred to me for a response.

However, before I address the substantive points, it occurs to me that you might want to know that whoever actually wrote this letter for you should proofread before publication. Trust me, it would save you embarrassment.

In the third full paragraph, I think you meant for us to comply "with the spirit of the judge's ruling," and not "with the spirit of judge's ruling." The word "the" is a very handy article in the English language.

Incidentally, you ask us to cease using certain arguments in our "television and radio ads." Your use of the present tense for the verb "cease" is incorrect; we are not currently airing any television or radio commercials. Oh well.

In the fourth paragraph you refer to the "pubic schools." Because I don't believe you're referring to sex education, I think you must mean "public schools."

Finally, in the last full paragraph, you urge us to "letter voters decide on the merits" of Proposition 174. Perhaps you meant "let voters decide."

As the head of the California State Parent Teachers Association -- oops, another typo; you wrote "Parent *Teacher*" -- you might have taken a few moments to set a proper example in the use of the English language. Do you wonder, now, why the School Choice Initiative has so much support?

Now, as to the substance of your letter:

(1) The fact remains that there is not a single word in Proposition 174 which mandates lowering the public school budget. The Legislature is free to appropriate as much money as it wishes for public schools.

(2) As for the issue of how much money reaches the classroom, do you disagree with Wayne Johnson -- your colleague (President of United Teachers of Los Angeles) -- that only 36 cents of every education dollar reaches the classroom? The fact is, atrocious mismanagement and runaway bureaucracy plague California's school system. I just don't want our kids to have to suffer from it.

(3) Thank you for confirming that "$19 billion could be saved" over the next eight years under Proposition 174. You even note that "this is significant." I'll be happy to quote your affirmation in all of our literature.

I don't think you want my candid opinion, but I'll give it anyway. I doubt you even wrote this letter. Surely, you would not let out of your hands a letter as poorly written and weakly argued as this.

Your letter is an embarrassment to the public school system, and, you'll forgive me, a disgrace to the PTA. Perhaps you'll find the enclosed corrections helpful to pass on to the person who writes your letters.

Cordially,

Ken Khachigian

Principal Strategist, Yes on 174 -- A Better Choice

firm this, polling has suggested that voucher plans are particularly liked in low-income areas. Yet, just as with so many other "empowerment" ideas that involve the marketplace, this one offends the poverty warlords. Tancredo found this out in Colorado in 1992; the Black Ministerial Alliance, he says, was put off by a visit from Williams.

In California, too, nearly all minority politicians are part of the statist claque—led by black Assembly Speaker Willie Brown—of which the 235,000-member teachers union is the leading fund raiser and water carrier. Teachers are blessed with considerable spare time, some of it on the taxpayers' dime (see memo on next page), to conduct their political activities, and they are a fearsome force. Aligned with administrators and PTAs, as they are in this struggle, they can be overwhelming at the grass roots in a small community and buy plenty of media time in a larger one.

They don't always have to spend millions to win statewide, however. Backers of the Oregon initiative in 1990 actually had a fund-raising advantage, because the teachers were fixated on a tax-cutting measure that same year. (The anti-choice side still managed to worm some free air time for TV commercials.) The Oregon choice crew, and Colorado's in 1992, drew on the deep pockets of free-market enthusiasts nationwide, especially Jerry Hume, head of Basic American Foods, a San Francisco–based institutional supplier.

Hume, however, is "on the sidelines" for the big ballgame in his own state. The new trustee of the Heritage Foundation is concentrating on mustering congressional support for the National Assessment of Educational Progress, promoted by former Bennett deputy Chester Finn as a way to measure honestly the relative performance of U.S. youngsters. Without such a standard, says Hume, school districts will enjoy a "Lake Woebegone effect" (uniformly exceptional children), and parents won't be able to ascertain that their schools are failing to make graduates internationally competitive. They therefore won't be very receptive to radical alternatives such as choice vouchers.

Mindful of the many pitfalls that await any legislative or referendum campaign for choice, some sympathizers set up a national nerve center for the movement in Chicago this summer. Provisionally called the American Alliance for Better Schools, its mission is to advise and alert state and local activists so they won't be the second or third group to learn some painful lesson. Temporarily headed by Doreen Torgerson, a choice advocate in the Lamar Alexander term at the Education Department, it has seed money from Everett Berg, another San Francisco Bay area businessman and co-chair of the Prop. 174 campaign. Torgerson advises proponents to "be careful, and look at how far we can go with the coalition we need to win."

Beyond that caution, it is difficult to draw too many general lessons from past attempts. The issues have been rather different in each case. In Oregon, home schooling became a big deal, with fears raised that parents would simply pocket the money and cheat their kids. (The option isn't included in Martin Buchanan's new version.) In Colorado, few cared about that. Similarly, the prospect of zealotry being taught in "cult" schools had little salience in the Rocky Mountain state, whereas in Oregon, which had suffered the Rajneesh commune, it did. The idea of tax dollars promoting born-again Christianity, or any promulgation of creationism, is quick to raise hackles in secular metropolitan areas, and in Oregon the image blends unhelpfully with the agenda of the Citizens Alliance, which pushes anti-homosexual laws. Again, in Colorado, no big deal.

What did hurt in Colorado, according to post-election polling, were economic arguments: The measure would damage public schools (which bathed in a 60-percent favorable rating) and would hurt the poor to feed the rich. In fact, the $2,500 voucher was attacked as too small to help a struggling family and therefore only pocketable by the wealthy who already had kids in private schools. Early soundings indicated this would also be a primary attack line in California, abetted by wording in Prop. 174 that throws the voucher open to existing private-school students within two years and, by some appraisals, therefore threatens a massive run on public-school coffers.

Similar damage was done in 1990 in Oregon. To get around that in 1994, sponsors there plan to call the next voucher a "scholarship" instead of a "refundable tax credit" and to up the amount to 60 percent of per-pupil expenditures in public schools, from 50 percent last time. Further, the benefits for those already paying private-school tuition would have a measured phase-in so as to avoid the chance of draining public schools.

Clearly, the voters are of two minds about helping the poor. They seem deeply skeptical that a general voucher can do the job, because they think it's unlikely schools will form to meet the created demand. Yet, choice backers observe, a less voiced but widely felt apprehension is that the option indeed will permit youths from low-income areas to penetrate the barriers of affluence. Tancredo, a Reagan-Bush regional officer of the Department of Education and now president of Denver's Independence Institute, says that when his pollsters raised the issue of vouchers "exporting inner-city problems" to safer areas, the response "went through the roof."

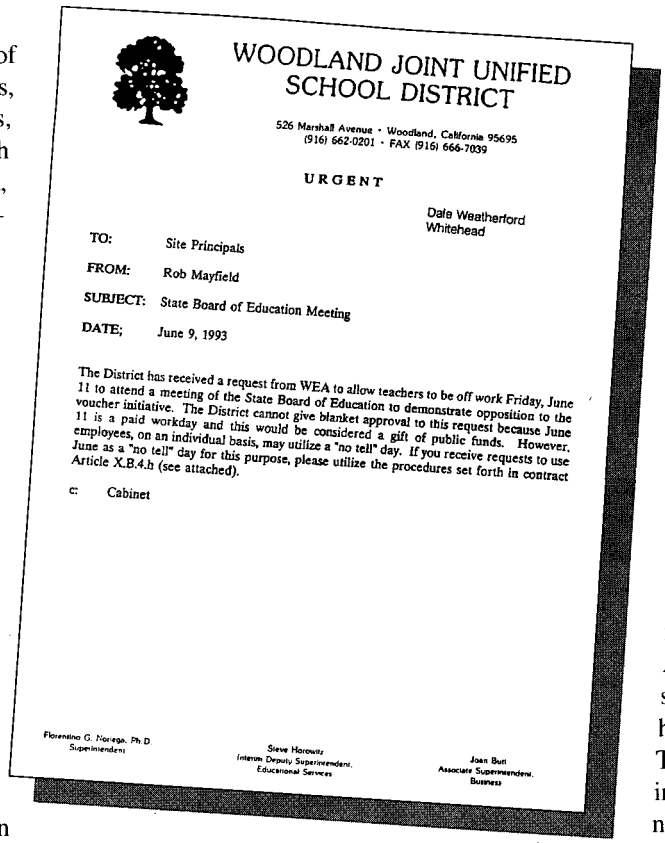
Residential economics explains this intensity of feeling. In many otherwise unremarkable settings, swank neighborhoods grow up around nothing more than an exclusivity compact, price being the neutral and (usually, to date) legal method of excluding undesirables. Enrollment at the local public schools is often the key barometer of how well the selectivity is faring.

As it happens, the "integration" of such bastions is probably a more likely scenario under a purely public-school choice plan (which is why we're unlikely to see many across entire metropolitan areas). Private-school choice would encourage the formation of decent schools near where the poor live, in order to capture the market. But that doesn't keep the specter from rising with each campaign,

usually spreading by word of mouth. The formal opponents, as good political liberals, would be ashamed to air such base thoughts. (In California, the Mises Institute's Rockwell did it for them.)

Strategist Khachigian, instinctively moving to shore up his base, says he plans to make the left-liberalism of the educationist crowd an issue, stressing to the GOP bedrock constituency that "the anti-choice forces are the most anti-Republican people in the state." He expresses hope that the teachers union, in its fervor to defeat Prop. 174, will overreach with wild charges that won't ring true.

"I have a lot of arrows in my quiver," Khachigian promises, and he will need them. But in late summer, he is upbeat: "If this were a normal campaign, I'd be pretty pessimistic, but I'm not." Khachigian maintains that with only a handful of items on the ballot, the voucher initiative will get more than the customary once-over from voters and the blasts from the opposition will therefore not do their customary lasting damage.



WOODLAND JOINT UNIFIED SCHOOL DISTRICT

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(916) 662-0201 • FAX (916) 666-7039

URGENT

Dale Weatherford Whitehead

TO: Site Principals

FROM: Rob Mayfield

SUBJECT: State Board of Education Meeting

DATE: June 9, 1993

The District has received a request from WEA to allow teachers to be off work Friday, June 11 to attend a meeting of the State Board of Education to demonstrate opposition to the voucher initiative. The District cannot give blanket approval to this request because June 11 is a paid workday and this would be considered a gift of public funds. However, employees, on an individual basis, may utilize a "no tell" day. If you receive requests to use June as a "no tell" day for this purpose, please utilize the procedures set forth in contract Article X.B.4.h (see attached).

c: Cabinet

Florentino G. Noriega, Ph.D. Superintendent

Steve Horowitz Interim Deputy Superintendent, Educational Services

Joan Butt Associate Superintendent, Business

Teachers are blessed with considerable free time to conduct their political activities.

Well, maybe. Maybe the manifest failure of the Los Angeles Unified School District, second largest in the nation, will sour voters there on the notion that a reform plan recently drawn up by a good-government group called LEARN will actually be allowed to work. And maybe the widely debated break-up of the district will indeed be going nowhere, leaving the San Fernando Valley with no alternative to choice if it is to escape the clutches of the downtown bureaucracy.

Likewise, maybe San Franciscans will despair of their success-defying district, where 46 percent of students are of Asian heritage—normally a beacon to parents of all races who want their kids in an academically serious situation—and yet upscale residents still won't give the schools a second thought. Maybe the cruddy nihilism that reigns in countless other classrooms around the state will give rise to another of California's legendary populist revolts.

If, on the other hand, the choice issue blows up in its backers' face again, with the whole nation watching this time, both the Colorado and Oregon activists say their own spirits will be drained. But still another day of battle will dawn. In Michigan, where the legislature has wiped the revenue slate clean of property-tax revenue and schools must be refunded from scratch, a fall 1994 choice initiative now seems propitiously timed. (There's no cleaner way to "equalize" school finance among rich and poor areas.) That election date looks similarly promising in Florida, where explosive discontent with government services and the population's general lack of deep roots may deprive the school lobby of customary cover.

Perhaps going for statewide adoption is too far a reach in most places as yet. A growing number of choice supporters think the best hope lies in starting small. That's why the next Colorado initiative, if it goes ahead, will not mention vouchers at all, but will simply permit school districts to do what they please with their 40-percent state expenditure match. Sponsors hope that areas cursed with miserably run schools—the local equivalents of L.A. and San Francisco—will gamble on opening the door to private competition.

Another idea is to fund pilot programs, as insurance executive Patrick Rooney is doing privately in Indianapolis. Oregon almost went this way for '94, but a majority of the organizing committee chose to go for a full-blown voucher system again. Buchanan muses about simply giving credits to 10,000 incremental poor kids each year. If a decent number succeed, "the rest of the people will follow."

Alternatively, the contracting out of existing public schools, as has begun in Baltimore with an outfit called Education Alternatives from Minnesota, and as is now promised by Chris Whittle's troubled Edison Project, could be a good advertisement for "private provision" in the short run.

The likelihood is for both small-arms fire and giant cannon blasts in the politics of choice over the next decade or more. Buchanan suggests, "This is one of those fights that may have to be fought again, and again" before any sort of Westphalian peace prevails. On the other hand, Doreen Torgerson says the war may end suddenly.

"We don't have to win everywhere. We have to win somewhere," she avers. "The opposition can't afford to lose anywhere. If they do...the dam's going to break." ◼

Tim W. Ferguson is a Los Angeles–based columnist and editorial writer for The Wall Street Journal.

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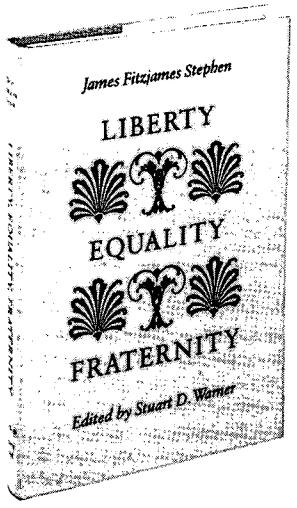

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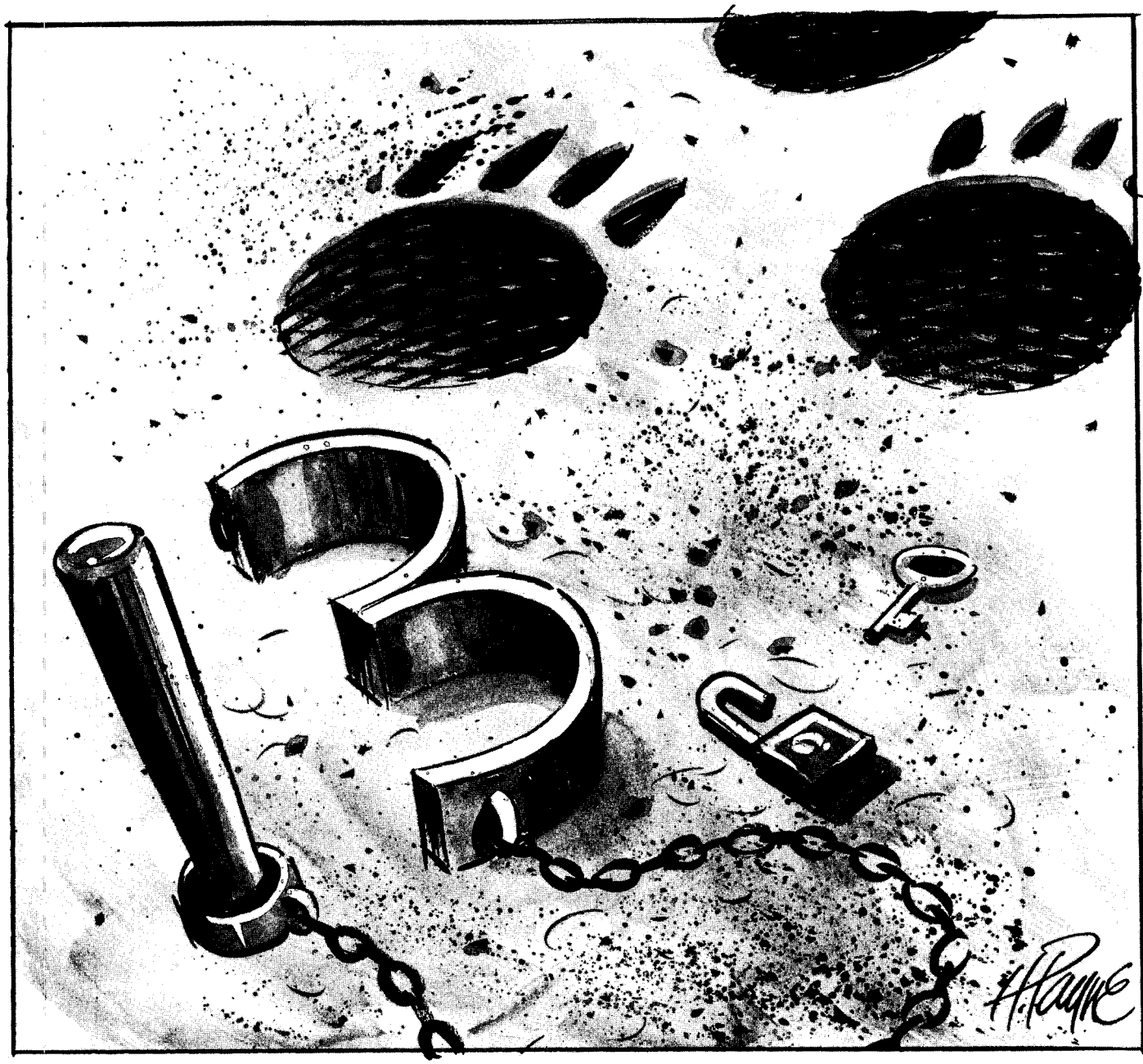
PUSHING THE LIMIT

California's government may have gotten too big for the cage built by Prop. 13.

By Steven Hayward



HENRY PAYNE

California's Proposition 13 remains the most famous tax revolt since the Boston Tea Party. Despite apocalyptic warnings from every establishment bastion of sense and sensibility, Prop. 13 passed in a landslide in June 1978 and propelled the nascent tax revolt into a national force, culminating in the election of Ronald Reagan and the supply-side income tax cuts of the early 1980s. The big-government establishment, addicted to ever more spending programs, has gnashed its teeth bitterly about Prop. 13 ever since. Repealing 13 has become the Holy Grail of "good government" reform in California.

Today, amid California's continuing economic catastrophe, Proposition 13 is in trouble. The state and local governments face huge budget deficits—more than $10 billion a year at the state level for each of the last three years—and the attack on Prop. 13 is being pressed with new vigor. Critics who charged back in 1978 that the initiative was "a gift-wrapped time bomb" claim that the bomb has now gone off.

To cut its own deficit, the state government has reduced aid to local government—aid it began providing in the aftermath of Prop. 13—by more than $2 billion this year. In response, local governments are threatening drastic cutbacks in basic services, including police and fire protection. San Francisco, for instance, lost more than $100 million in state aid, leading to local tax increases and an estimated 1,500 layoffs. Between reduced state aid and lowered revenue from other sources, Los Angeles County has had to cut its budget by nearly $1 billion.

Prop. 13's critics resumed their fierce attack on the occasion of the initiative's 15th anniversary in June. State Sen. Alfred Alquist (D-San Jose), the octogenarian chairman of the Senate Finance Committee, bemoaned the loss of over $150 billion in revenue since 1978. Peter Schrag of the *Sacramento Bee* calls the local government cutbacks "the 15-year deferred anguish of Prop. 13." He argues that "there is almost nothing in this state that hasn't been affected [by Prop. 13], mostly for the worse."

Like Bill Clinton crusading to undo Reaganomics partly through a revisionist history of "the last 12 years," California's big spenders are hoping to use the current crisis to undo Prop. 13 and tarnish the legacy of the tax revolt it helped to inspire. The chief vehicle for this purpose is a sales tax hike slated for a special election in November. The ballot initiative contains some fine print designed to eviscerate Prop. 13's supermajority vote requirement for local tax increases.

Like Bill Clinton crusading to undo Reaganomics partly through a revisionist history of "the last 12 years," California's big spenders are hoping to use the current crisis to undo Prop. 13 and tarnish the legacy of the tax revolt it helped to inspire.

The debate over Prop. 13 in California is important not only to those states that copied some aspects of Prop. 13 for themselves (such as Massachusetts, Michigan, and Oregon) but also for what it can teach us about the way big government reacts spontaneously to tax limitation—like a host organism acting to isolate and kill a bacterial parasite. The lesson in a nutshell is: Tax limitation without serious spending control is not enough to stop the growth of government. Government has become like the outer-space creature in *The Blob*, absorbing every blow against it and growing relentlessly larger. The only solution for the Blob was a deep freeze; the same is required to limit government spending.

The key to settling this controversy is to understand what Proposition 13 did and didn't accomplish. Prop. 13 cut the property tax rate by more than 50 percent, capping it at 1 percent of assessed valuation. Perhaps more significant than the rate cut, Prop. 13 stipulated that assessed valuation can rise at only 2 percent a year, far below the rate of market-value appreciation in California over most of the last 15 years.

These limits mean that a homeowner is not subject to the capriciousness of inflation, market price surges, and aggressive tax assessors. He can predict with certainty what his tax burden will be as long as he owns his home or business property. But the restrictions mean that longtime property owners tend to pay much lower taxes than recent buyers, often on identical pieces of property. Critics argue that this distortion shifts the tax burden to new home buyers, and there is some merit to this argument. By 1989, the 44 percent of California homeowners who have owned their homes since enactment of Proposition 13 in 1978 shouldered only 25 percent of the more than $4 billion in residential property taxes paid by homeowners statewide. This feature has been a chief source of contention and litigation over Prop. 13. The U.S. Supreme Court last year rejected the argument that Prop. 13's acquisition value basis violates the Equal Protection Clause.

Finally, Prop. 13 stipulated that any local special taxes

or bonded indebtedness must receive a two-thirds vote of the people to be enacted. This last feature has proven a significant stumbling block to raising local taxes. Prop. 13 immediately reduced taxes by $7 billion; a California homeowner with a $50,000 home enjoyed an immediate reduction of about $750 per year in property taxes. The cumulative savings to the taxpayers in the 15 years since its passage are estimated at more than $150 billion.

It is worth recalling some of the political and fiscal history behind Prop. 13's passage, partly in order to counter the current revisionism and partly to appreciate how dramatic that passage was. In the mid-1970s housing prices in California were skyrocketing, far faster than even the surging national inflation rate. The median price of an existing home doubled from $31,530 in 1973 to $62,430 in 1977. Housing prices in the Los Angeles and San Francisco areas were rising at an average rate of 14 percent to 15 percent a year. Assessed valuations for property-tax purposes were climbing along with prices. And because of some quirks in the way the property tax was levied, and the fact that most counties reassessed property values only every two or three years, many property owners were seeing their property-tax bills suddenly double or triple.

Not surprisingly, many homeowners thought things were getting out of control. In per-capita terms, California's property tax was more than 50-percent higher than the national average, and the property tax had come to account for more than 40 percent of total state and local government revenue.

Meanwhile, other state taxes were also going up, especially the state income tax, resulting in a sharply rising overall tax burden. The total tax burden in California had jumped from 11.29 percent of personal income in 1960 to 15.44 percent by 1978. Without Prop. 13, the total tax burden would have topped 16 percent of personal income in 1978. Thanks to bracket creep, the state income tax in particular was a very elastic tax for the state treasury. For every 1 percent rise in personal income, the state enjoyed a 1.6 percent increase in income-tax revenue, making the state government the major winner from the high inflation of the '70s. (The income tax was finally indexed for inflation in 1979, in the aftermath of Prop. 13's passage.) By 1978, California was among the highest-taxed states in America.

An extraordinary bureaucratic episode tipped the scales in favor of Prop. 13. A month before the election L.A. County residents received their new property-tax estimates. The resulting outcry prompted voters elsewhere in California to fear they were next.

The state also had accumulated a huge budget surplus, more than $4 billion, owing in large part to tax increases supported by Gov. Ronald Reagan several years before. The surplus made taxpayers even more annoyed. Gov. Jerry Brown denied for a time that a surplus existed at all. The legislature fiddled with some property-tax relief measures, usually involving shifting but not reducing the overall tax burden, but could not come to agreement. Repeated attempts by the legislature to fashion a property-tax relief measure floundered in partisan wrangling. Even the prospect of Proposition 13 could not break the legislative deadlock.

And yet, in the months before the June vote on Proposition 13, public opinion polls found that the voters were evenly divided on the measure, with a large undecided segment. Then an extraordinary bureaucratic episode tipped the scales in favor of Prop. 13. One month before the June election, Los Angeles County residents received their new property valuation assessments and property-tax estimates for the following year. The resulting outcry about the huge increases in taxes made news headlines statewide and prompted many voters to fear that they were next. The interesting thing about this episode is that the new assessments for Los Angeles County were not due to be delivered to the taxpayers until July, after the election. A rare case of bureaucratic efficiency was the proximate cause in helping pass the measure to deprive the bureaucracy of tax revenue.

Proposition 13 terrified the big-spending establishment, which planned to defeat the initiative with scare tactics, as they had previous tax-limitation initiatives. (Voters had rejected earlier limitation measures, including Proposition 1, Reagan's 1973 tax-and-spending-limitation initiative. Opponents successfully argued that limiting state taxes and spending would reduce aid to local governments, encouraging them to raise taxes and cut services.)

To feed these fears, the *Los Angeles Times* said Proposition 13 would cause the doubling or tripling of the state income and sales tax. John Van De Kamp, then Los Angeles district attorney, called it "a gift-wrapped time bomb." Gov. Brown called it a "rip-off" and a "consumer fraud." The state Democratic party chairman said it would mean "turning the state over to the current day anarchists."

Schools threatened massive layoffs of teachers; teachers threatened to go on strike in response to possible staff cutbacks.

National organizations even got in on the act. On the eve of the election, the National League of Cities, the U.S. Conference of Mayors, and the National Association of Counties called a press conference in Washington, D.C., to deplore Proposition 13, calling it a "wrecking ball" that would cripple local government. One economic study said it would cost the state 450,000 jobs. Even the Communist Party called a press conference to denounce Prop. 13. It was all for naught, as the voters were unmoved by the parade of imaginary horrors. Far from suffering a loss of 450,000 jobs, California gained 2 million new jobs over the next decade, growing at a rate 50-percent faster than the nation.

But even a salutary measure like Prop. 13 is not immune to the law of unintended consequences, and so it is necessary to survey what Prop. 13 didn't do. Prop. 13 was a limitation on *local* taxation; it did nothing to limit the growth of taxes and spending at the state level, and therein lies Prop. 13's Achilles' heel.

In the aftermath of Prop. 13's passage, the state government stepped in and essentially liquidated its multi–billion-dollar surplus by bailing out the local governments. Prop. 13 presented big government with a great opportunity to centralize authority by attaching myriad conditions to aid to local government and schools. "The passage of Proposition 13 has caused almost the entire liberal agenda to be de facto adopted," wrote economist Frank Levy of the Urban Institute shortly after the measure passed.

The state assumed most county health and welfare costs, and state funding for public schools increased from about 40 percent of all expenditures prior to Prop. 13 to more than 70 percent today. The state's legislative analyst, Alan Post, wondered whether Prop. 13 "left any significant role for local school boards." Economist William Oakland wrote, "Local control or 'home rule' may become a thing of the past in California." Both suggestions were right.

State government taxes and spending have continued to soar in the 15 years since Prop. 13, despite a constitutional spending limit the voters passed in 1979. One way of putting this into perspective is to recall a warning from then-Gov. Reagan during his campaign for the unsuccessful tax-and-spending-limitation amendment way back in 1973. Reagan warned, "Unless something is done to check the government's unlimited power to tax, this year's $9.3 billion budget will grow to a staggering $47 billion by 1989." The 1989 state budget in fact topped out at more than $50 billion. Throughout the 1980s, state spending grew one to two percentage points a year faster than personal income.

Prop. 13 is not immune to the law of unintended consequences, so it's necessary to survey what Prop. 13 didn't do. It was a limitation on local taxation; it did nothing to limit the growth of taxes and spending at the state level, and therein lies Prop. 13's Achilles' heel.

Even though Prop. 13 reduced the total state and local tax burden from nearly 16 percent of personal income to less than 12 percent, California still remains one of the 10 highest-taxed states in the country, and the state tax burden is still nearly twice as high as it was in the early '60s, when California was on a great binge of building roads, water projects, and state colleges. (The actual figures are these: Between 1958 and 1991, state per-capita spending, in real 1991 dollars, jumped from $629 to $1,716. While real state spending per capita tripled, real per-capita income less than doubled. Hence, state government's share of personal income has risen from 4.8 percent in 1962 to more than 8 percent today.)

Yet state government, with twice the tax burden of a generation ago, today claims to be unable to fund public works, education, and other basic services. This claim provides the essential clue about the mendacity of the attack on Prop. 13. The reason government can't afford the things it used to do isn't that it has no money; it's that spending on social programs has skyrocketed. Since Prop. 13, spending has soared for health and welfare programs, K-12 education (up by one-third per pupil in real terms during the '80s), and corrections (California's prison population quadrupled in the '80s, with a large portion of the increase composed of drug offenders).

The shift of spending priorities from public works to social programs, driven in part by federal mandates, lets big spenders play the old "Washington Monument strategy" with the fiscal structure of California. The "Washington Monument strategy" refers to the bureaucratic practice of threatening to close down the most popular or vital program in response to prospective budget cuts; the U.S. Department of the Interior always says it will have to close the Washington Monument first if its budget is cut. Faced with a budget crisis, Sacramento lawmakers inevitably threaten to slash spending for schools or law enforcement.

In a perverse way, many big spenders probably take secret delight in Prop. 13 and other tax limitations. In addition to enabling a vast centralization of government authority, tax limitation without tough spending controls allows big spenders to squeeze the basic public services that taxpayers demand from government. That squeeze then erodes public opposition to raising taxes. In California, for example, spending for roads has steadily declined from nearly 16 percent of the state budget in the mid-'60s to less than 5 percent today. "You see," the big spenders say when folks complain about the lack of public works, or about misspent education funds, "it's all Proposition 13's fault."

California's current economic and budget crisis has brought this problem into sharper focus. As a part of the solution to this year's $10-billion budget deficit, Gov. Pete Wilson and the legislature shifted $2 billion of property taxes away from local government and to the public schools. Local governments screamed that the property-tax shift would entail large cuts in police and fire protection, so frightened state politicians have placed on the November ballot a $1.4-billion sales-tax measure ostensibly for local government to provide police and fire protection.

But to get around Prop. 13's two-thirds vote requirement for special local taxes, the initiative declares these local sales taxes to be state levies, which require only a simple majority. This provision means that state government will continue to control the money that flows to the local governments—even the taxes they impose themselves. The most amazingly Orwellian aspect of all, however, is that neither the ballot title nor the summary of the initiative even mentions that it is a tax increase. It is called the "Local Public Safety Protection and Improvement Act of 1993" and speaks only of providing a "dedicated revenue source" for public-safety purposes.

But the initiative does not impose a "maintenance of effort" requirement on local government—a provision to prevent local governments from making the new revenue fungible by diverting existing money from public safety to other purposes. So the language about a "dedicated revenue source" is meaningless. "We've already gotten reports out of different counties," says Skip Murphy of the Peace Officers Research Association, "that every dollar that goes into the left pocket will be taken out of the right pocket." (A companion ballot initiative in November would reduce the requirement to pass school bonds from a two-thirds vote to a simple majority.)

Big spenders may succeed in nibbling away more and more bits of Prop. 13, but they are misjudging the mood of the people. The growth of wasteful and unproductive government spending in California is gradually building the circumstances for another tax revolt.

The real lesson of the legacy of Prop. 13 is that tax limitation is not sufficient to reform the government. Comprehensive spending limitation is required as well, something like what Ronald Reagan proposed with Proposition 1 back in 1973. Rather than limiting specific taxes or tax rates, Prop. 1 would have slowed state spending growth by capping total state revenue at 7 percent of personal income—more than 1 percentage point below where it is today. But even more is required: either a legislative majority that will stick to sensible spending priorities like public works, or rigid earmarking to keep the bureaucracy from diverting the budget to its social-welfare clients.

Big spenders may succeed in nibbling away more and more bits of Prop. 13, but they are misjudging the mood of the people. The growth of wasteful and unproductive government spending in California is gradually building the circumstances for another tax revolt, which this time might take the form of something like Reagan's Prop. 1. The massive income- and sales-tax hikes of 1991 have contributed to the exodus of business from the state, and the anti-tax movement, still vigorous and well organized, now understands the need for comprehensive constitutional tax and spending restraints. The new revolt may well happen during the reign of Jerry Brown's sister, Kathleen Brown, currently the front-runner to win the governorship away from Pete Wilson in November 1994.

If so, it would provide dramatic closure to California's greatest political dynasty since the railroad barons. Gov. Pat Brown was humbled by Ronald Reagan, son Jerry by Prop. 13; now Kathleen seems poised to preside over the next great act of the tax revolt. If that act does indeed come to pass during the regime of Kathleen Brown, it will mean that the Brown family would have presided over more advances for the cause of limited government than California's legendary conservatives. ■

Contributing Editor Steven Hayward is research and editorial director for the Pacific Research Institute in San Francisco.

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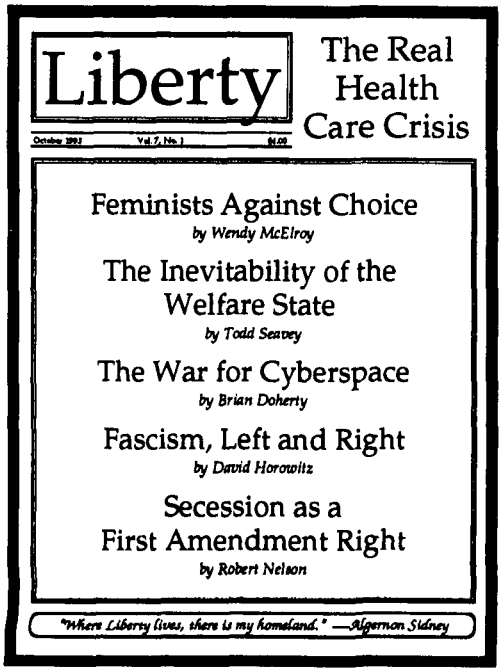
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BRIAN RASZKA

Hide and Peek

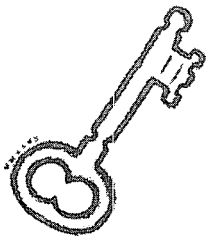
The government doesn't mind if you lock up your secrets—as long as it holds the key.

by Lee Dembart

In recent years, the formerly esoteric world of cryptography has become a subject of potential interest to everyone who uses computers or digital communications. Since hackers have demonstrated that the most secure computers can be breached, people who want to make sure that their electronic information remains confidential are increasingly relying on codes to protect it. Someone who breaks into a computer containing encrypted files will find only electronic gibberish stored in the machine's memory. The simple and incontrovertible fact is that all systems to protect the security of electronic data must use encryption.

If you want to be sure that no one can read your electronic mail except the person you send it to, you should encrypt it. Other new technologies, including cellular phones, cordless phones, and faxes, are also vulnerable to interception. Eavesdroppers can be thwarted by encoding the information before it is transmitted. If Prince Charles and Princess Diana had encrypted their cellular-phone conversations, they would have spared themselves much embarrassment.

The proliferation of data banks, credit bureaus, and computerized record keeping of all kinds has underscored the need to make sure that this information remains secure. Every time you make a credit-card purchase, rent a



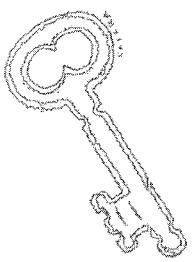
video, or call someone on the telephone, a record is made of what you did. Someone who can put all of these records together can paint a rough picture of who you are, even before he gets your medical records, income-tax returns, and other, more confidential information. Cryptography is one way of making sure that information about you is used only for the purposes you authorize.

This system of codes is like the lock boxes real-estate agents use. The lock box, with house key inside, hangs on the house door. The agent has a separate key that opens the lock box. The Clinton administration wants government to hold the keys to everyone's lock box.

The commercial uses of cryptography are already enormous. The banking industry transmits $350 trillion a year by encrypted wire transfers. Every day, U.S. banks send 350,000 encrypted messages transferring funds around the world. They want to make sure that no one except the intended recipient can read the information or alter it. Indeed, every time you use an automated teller machine, it communicates with its mainframe computer through encryption.

As many political jurisdictions move toward computerized voting, it is essential that votes from individual polling places be sent to the main tabulating center with encryption. Sending them in the clear is an invitation to voting fraud.

Modern codes also have the intriguing ability to provide "digital signatures" that cannot be forged. With a traditional business contract on a piece of paper, both parties sign their names, and the signatures authenticate the agreement. But in the electronic world, if a contract is negotiated and written over a computer network, there is no signature made with a pen and ink on paper. Using contemporary codes, it is possible to prove that the person at the other end of the computer modem is who he says he is and to hold him to any agreement he might make.



Given the multiplicity of current and potential uses for cryptography, it's not surprising that the Clinton administration provoked a storm of protest last spring when it proposed a standard set of computer codes for telephone calls and computer data. The plan envisions two chips, one called Clipper, for encoding digital telephone signals, and another called Capstone, for digital information from computers. The government would hold the keys to all electronic encryption, and it would split them between two agencies chosen by the attorney general. Law-enforcement officials would need a search warrant to get access to the codes. Eric Hughes, a computer security expert in Berkeley, California, observes: "The government is saying, 'If you want to lock something up, you have to [give us] the key.' "

In essence, this system is like the lock boxes that real-estate agents use on houses to be shown to prospective buyers. The lock box, with the front-door key inside it, hangs on the door. The real-estate agent shows up with a separate key that lets him open the lock box and get out the key that opens the door. In the Clinton administration's plan, the government holds the key to the lock box. No matter what key the user chooses for his "front door," the government can always open the lock box and get to the key. While use of the government encryption standard would not be mandatory, computer and communications companies that want to remain eligible for government contracts would have a strong incentive to adopt it.

The Clipper-chip plan was quickly attacked by civil libertarians, the private cryptographic community, and a consortium of major computer and electronics firms. "The idea that citizens must register their secrets with the government just in case they are trying to keep them secret is patently unAmerican," declared one representative correspondent on the Internet, the worldwide computer network.

More than 30 major electronics companies, including AT&T and IBM, signed a letter to the president that said, in part, "While we recognize the importance of authorized national security and law enforcement needs, we believe that there are fundamental privacy and other constitutional rights that must be taken into account." An editorial in *Communications Week* observed: "This isn't the first time that the government has proposed an authoritarian scheme that goes after a few peoples' crimes while stomping on the majority's civil liberties."

The controversy over the Clipper-chip plan is the latest skirmish in a 20-year struggle between people who consider strong, widely available computer codes a guarantee of privacy and people who consider them a threat to national security and domestic tranquility. For intelligence and law-enforcement agencies, unbreakable codes in private hands mean that spies and criminals would be free to plot their nefarious activities without fear of detection. So ever since cryptography emerged from the secret world of the Pentagon and the National Security Agency in the mid-1970s, the government has sought to restrict what the public knows about new coding schemes and to hamper their general use.

Civil libertarians have consistently resisted measures that would make it easier to catch the bad guys by leaving all Americans vulnerable to government surveillance. The Fourth Amendment to the U.S. Constitution guarantees "the right of the people to be secure in their persons, houses, papers, and effects against unreasonable searches and seizures." What better way is there to be secure in your papers than to have them encrypted in a code that the government cannot read?

In many ways, this is a classic conflict between individual freedom and the demands of law enforcement.

BRIAN RASZKA

It's hard to predict how the political process would resolve the issue. But it may be too late for that. Technological developments and the diffusion of information may soon make the debate obsolete.

Almost as long as people have been writing things they have looked for ways to keep secret what they have written. The problem with writing is that anybody can read it. So when people have had confidential information, they have tried to make sure that only the people they wanted to read it could do so, while everyone else could not. This has led to the development of cryptographic systems—secret codes.

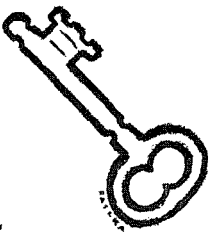
Until fairly recently, military applications of secret codes have predominated. Julius Caesar devised codes to communicate with his generals so that if a messenger were captured by the enemy, the message he was carrying would remain secure. In this century, the advent of radio made the problem more pressing. When information is broadcast through the air, it isn't even necessary to capture a messenger. The signals are there for any eavesdropper who wants to listen. Among the most significant developments of World War II was the Allies' breaking of both the German and the Japanese top-secret codes. Messages to the field from both Berlin and Tokyo were routinely read by Allied generals and war planners.

David Kahn relates the history of cryptography through the mid-'60s in his monumental 1967 book *The Codebreakers*. But shortly after Kahn's book was published, a very significant thing happened: Computers got very fast and very cheap. This had two consequences for cryptography. First, it made possible a new kind of computer-based codes that for the first time were all but unbreakable. Second, the widespread commercial and personal use of computers created an entirely new domain for cryptography. It is no longer an arcane subject of interest mainly to spies and the military.

The modern era of code making got started in 1976, when Martin Hellman of Stanford University and Whitfield Diffie, now at Sun Microsystems in Mountain View, California, published a paper entitled "New Directions in Cryptography" in the journal *IEEE Transactions on Information Theory*. They described a radically new kind of code in which the key used to encrypt a message would be different from the key used to decrypt it. The encrypting key could be made public. Hence the name of this system: public-key cryptography. But the decrypting key would be kept secret, so only the recipient of the message could unscramble or decode it.

It's like having a mailbox with two keys, one for locking and the other for unlocking. Everyone can have one of your locking keys, which allows them to put a letter in your mailbox and lock it up. But only you have the unlocking key. Only you can open the mailbox and take out your mail.

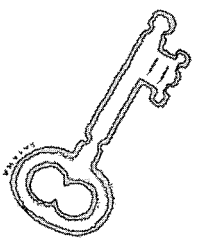
These codes are based on what are called trap-door mathematical functions. Like trap doors, it is easy to go in one direction (falling through the trap door), but it is very hard to go in the other (climbing out after you've fallen in). Shortly after Diffie and Hellman published their idea, three computer scientists at the Massachusetts Institute of Technology, Ronald Rivest, Adi Shamir, and Leonard Adleman, proposed a scheme to implement it. Their proposal (now called RSA after its inventors) is based on the fact that multiplication is very easy (especially for a computer), while factoring (determining what two numbers have been multiplied together to produce a given product) is very hard. That is the trap-door function. Easy one way, hard the other.



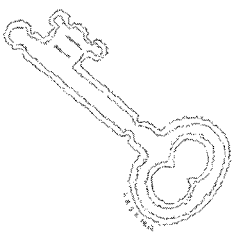
When computers became fast and cheap, unbreakable codes were made possible for the first time. And with the widespread commercial and personal use of computers, cryptography was no longer an arcane subject of interest mainly to spies and the military.

It is child's play for a computer to multiply two very large numbers—100 digits or more. But if you give a computer a 150-digit number and ask it what two prime numbers were multiplied together to produce it, the computer will have fits. There is no easy way to find the answer. Essentially, brute force is the only way to do it. That is, it has to try all of the possibilities.

For a small number, factoring is relatively easy. If you were asked, say, what are the factors of 35, it wouldn't take long to come up with seven and five. But for very large numbers, factoring takes more time than even the fastest computers have. By some estimates, trying all the possible factors of a 150-digit number would take millions of years.



As long as the general factoring problem remains unsolved—and there is no indication, despite a tremendous amount of work on the subject, that anyone has a clue how to solve it—the RSA codes are unbreakable. Edgar Allan Poe, who was an amateur cryptographer, wrote, "It may be roundly asserted that human ingenuity cannot concoct a cipher which human ingenuity cannot resolve." Poe's statement was true until public-key cryptography came along. So far, these codes have proved him wrong. But if anyone figures out an easy way to factor very large numbers, these public-key codes will be useless.



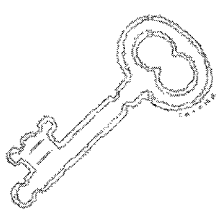
In 1977, Martin Gardner wrote a "Mathematical Games" column in *Scientific American* describing the new work in cryptography and the prospect for unbreakable codes. No sooner had it appeared than the

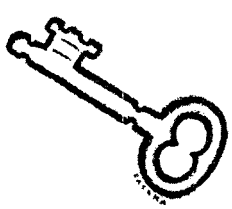
National Security Agency, the federal agency charged with creating U.S. codes and intercepting the encoded messages of other nations, declared that research on public-key cryptography could endanger the national security of the United States. It would be possible for foreign nations to discover that the codes they were using were insecure and to substitute new coding systems that the agency could not break.

The U.S. government has tried to prevent the export of cryptographic devices. It's even illegal to take some popular computer programs out of the United States. Nonetheless anyone can buy a disk containing a good cryptosystem in computer stores in Moscow.

At one point, the agency suggested that it would ask Congress to enact legislation treating research in cryptography like research in atomic energy. By law, all research on nuclear weapons is "classified at birth," which means that if you go into your garage and invent an atomic bomb—using no published sources, classified or unclassified—you may not publish your findings. (The courts have upheld this seemingly unconstitutional prior restraint on publication, arguing that the threat of "thermonuclear annihilation of us all" justifies an exception to the First Amendment.) The NSA believed that publishing research on public-key cryptography would violate the International Traffic in Arms Regulations. There is obviously great military significance to having an unbreakable code.

In 1980 a public-cryptography study group was formed under the auspices of the American Council on Education. It included representatives of the NSA, the American Association of University Professors, the Pentagon, and mathematics and engineering societies. Among other things, this group struggled with how to differentiate theoretical ideas from actual cryptographic devices. Theoretical ideas cannot be stopped, either legally under the First Amendment or as a practical matter. Ideas do not respect national boundaries. But cryptographic devices are subject to the regulations on trafficking in arms.





The study group, which was chaired by Ira Michael Heyman, then chancellor of the University of California at Berkeley, called for all researchers in cryptography to voluntarily submit their papers to the NSA for review before publishing them. It was one of the first times that members of the academic community, normally committed to the free and open exchange of ideas, had recommended such restrictions. They undoubtedly felt the heat of the NSA's threat to seek federal legislation if academic cryptographers did not voluntarily restrain themselves.

But one member of the study group, George Davida of the University of Wisconsin, dissented from the recommendation, warning that privacy was at stake, that computer networks were "electronic windows into the most intimate details of people's lives," and that "a university, to be effective, has to be free."

In the 13 years since the study group made its recommendation, the issues have remained largely the same: privacy on one side and national security/law enforcement on the other. Significantly, the study group's recommendation for voluntary submission of cryptography papers to the NSA has been almost totally ignored. Nonetheless, the government did not carry through on its threat to seek legislation authorizing prior restraints on the publication of papers on cryptography, and many such papers have been published. In the last dozen years or so, cryptography in general and public-key cryptography in particular have been the subject of very lively debates in the technical literature and the not-so-technical literature. (Of course, it is hard to know what papers have not been published or have otherwise been withheld.)

The problem that the study group wrestled with—distinguishing theory from practice—remains unresolved and is a serious sticking point in all efforts to control knowledge. Twenty years ago, only a handful of mathematicians were interested in the factoring problem. Now, because of the significance of factoring for the security of these codes, there are probably hundreds of mathematicians working on factoring. Suppose one of them figures out how to do it. Would the government try to prevent publication of that information? After all, it would be a result in pure mathematics. To be sure, it is a result that would have important national-security implications. But the prospect of the government trying to prevent people from finding out that the factoring problem had been solved is ludicrous. It would be like the government trying to keep people from knowing that the angles of a triangle add up to 180 degrees, or that the earth goes around the sun.

Despite the difficulty of controlling the spread of knowledge, the government has tried hard to prevent the export of cryptographic devices or of programs that use sophisticated encryption algorithms. It is technically illegal to take out of the United States versions of some very popular computer programs—including the Norton Utilities, for example. But these efforts have proved largely ineffectual. You can buy a disk containing a good public-key cryptosystem in software stores in Moscow.

Here again, the problem is that it is all but impossible to restrict the flow of knowledge. In the era of the Internet, barring people from physically taking information out of the country is no bar at all. Digitized data moves freely by satellite. And even when it doesn't, it is virtually impossible to prevent anyone from walking into a software store in the United States, buying en-

crypted software on a floppy disk, and then putting it into a suitcase.

Over the years, the NSA has been very vocal on these matters. It has consistently opposed the adoption of public-key cryptosystems, preferring more conventional coding schemes that the agency can crack. The government has consistently endorsed a single-key encryption system called the Data Encryption Standard, which has been the source of much controversy over the last 15 years, though no one has been able to show that it can easily be broken. Because of the government's endorsement of the Data Encryption Standard, many banks and other commercial enterprises now use it, fearing, perhaps, that insurers would balk if they abandoned a cryptographic system that had the government's imprimatur.

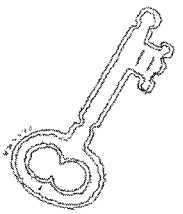
Critics of the NSA's policy argue that restrictions on cryptographic systems put U.S. companies at a disadvantage relative to foreign companies, which are free to sell whatever cryptography their customers want. The demand for secure encryption will not go away, and the business will simply flow to any country that can meet the need. Why should the United States, which has a commanding lead in this technology, cede a business that is expected to be worth $5 billion in a few years to other parts of the world?

In addition to the export restrictions, the FBI wants Congress to outlaw the domestic use of unbreakable codes in electronic communications. The bureau argues that it needs the ability, once it has obtained a warrant, to listen in on the conversations of terrorists, organized crime figures, spies, and other malefactors. "We would not be able to succeed without the ability to lawfully intercept," says a bureau spokesman in Washington.

This is a contemporary version of the old argument that the only people worried about privacy are those with something to hide. In this view, only criminals need to be concerned. But even if Congress passes the legislation that the FBI wants, is it likely that bad guys who are breaking other laws would accede to the new law banning unbreakable codes? Or, as an editorial in the trade journal *Network World* put it recently, "What crook is going to use a technology that has a trapdoor to the Feds?"

The Clinton administration's Clipper-chip proposal was an attempt to reconcile law-enforcement and privacy interests. Assuming it can get its encryption standard widely adopted, the government promises not to release the keys unless and until a law-enforcement agency gets a valid search warrant. "The process is replete with checks and balances," the FBI assures.

Dorothy Denning, a leading cryptographer, agrees that concerns about the proposal are overblown. "The argument for a viable wiretapping capability is not an argument about absolutes," she wrote recently. "It is time to acknowledge that '1984' was fiction and recognize that our extensive system of government checks and balances has worked exceedingly well in preventing and exposing abuses."



Nevertheless, the prospect that the government would have access to any encrypted information it wanted to see leaves many people feeling insecure. The impetus for encryption in the first place stems from a desire to keep out *all* prying eyes, including the government's. Washington's promise that all of this will be closely monitored and controlled does little to allay those concerns.

The prospect that government bureaucrats would have access to any encrypted information they want to see leaves many people feeling insecure. The impetus for encryption in the first place stems from a desire to keep out all prying eyes, including the government's.

Opponents of the Clipper chip are also concerned that the government will not allow independent cryptographers to inspect the basic plan for encryption and decryption. Everyone simply has to accept the government's assurance that the cryptographic scheme is very strong. Rumors abound that the NSA has built a trap door into the Clipper chip that would enable it to read any messages, with or without a court order. It's hard to say whether this is a legitimate concern. But it's a second example of the government saying, "Trust us." Many people would rather use public-key cryptography, which does not require them to trust anybody or to decide whether the government is trustworthy.

This is why many cryptographers became interested in secret codes in the first place. They were concerned about privacy, and they were fascinated by the possibility of keeping information in a way that no one—least of all the government—could see it.

Ultimately, it's unlikely the government can prevent the spread of information and knowledge, regardless of what it decides to do. Washington can force government contractors to use the Clipper chip and not use any other encryption scheme. But as a practical matter, it cannot prevent individuals from using whatever encryption scheme they want. For those who want the strongest encryption possible, RSA public-key cryptography is the system of choice. For better or worse, the genie is out of the bottle. ■

Lee Dembart is a longtime journalist, science writer, and editorial writer at The New York Times *and the* Los Angeles Times *who has written extensively about computers, mathematics, and public policy. He recently graduated from Stanford Law School.*

PROTECTIONIST RACKET

BY BRINK LINDSEY

As if the North American Free Trade Agreement didn't have enough enemies already—Ross Perot, Ralph Nader, the AFL-CIO, Greenpeace, and most congressional Democrats for starters—now some free-traders are turning hostile. Specifically, in late August two free-market organizations—the Competitive Enterprise Institute and the Ludwig von Mises Institute—came out in opposition to NAFTA. The plot thickens: They made their announcement at a NAFTA-bashing press conference starring—are you ready?—protectionist/nativist Pat Buchanan and former Customs commissioner/drug war Dr. Strangelove William von Raab. What's a nice idea like free trade doing in a place like that?

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THE UNITED STATES- SOLE SUPERPOWER, COLD-WAR VICTOR, AND LEADING WORLD EXPORTER-CONTEMPLATES A TRADE PACT WITH MEXICO.

Actually, there's plenty in NAFTA to make a free-trader uneasy. To begin with, the whole idea of negotiated trade agreements is mercantilist in conception. In trade negotiations we will only "give up" our trade barriers (no matter how misguided or harmful to our economy they may be) in exchange for similar "concessions" by other countries. The implication is that opening our markets is the price we pay to gain better access to markets abroad. That "exports good, imports bad" premise is at the heart of the mercantilist worldview; any good free-trader knows that open markets are their own reward, regardless of what is going on in other countries.

I have argued, in these pages (see "Reciprocity for Disaster," August/September 1991) and elsewhere, that for both theoretical and practical reasons a strategy of unilateral liberalization is generally preferable to trade negotiations. Pursuing open markets strictly as a matter of national economic policy is clearly sound in theory. Practically, it has the advantage of putting the focus of policy debate where it belongs: not on whether policies and conditions abroad are to our liking, but on whether the particular U.S. industries receiving or requesting import protection deserve special treatment at the expense of the rest of us. Furthermore, the example of the United States actually taking its own rhetoric seriously and opening its markets would do more to encourage freer trade abroad than any negotiations ever could.

Whatever my druthers, though, unilateral free trade is not exactly a happening political movement in this country. The cause of free trade, for the foreseeable future at least, rests entirely on the fate of trade negotiations: the Uruguay Round of the General Agreement on Tariffs and Trade talks and, of course, NAFTA.

If those initiatives fail, there's quite simply nothing else on the horizon. In evaluating NAFTA, then, the realistic question is not whether the agreement is perfect or even whether it represents the best approach to reform—I think it fails on both counts, but neither count is relevant. The decisive question is whether NAFTA marks a step in the right direction. The answer is a resounding yes, and therefore free-traders ought to be lending the embattled agreement their full support.

Let's look at the original agreement first, and then we'll move on to the more controversial side deals. The original NAFTA certainly has its share of warts and wrinkles: The first clue is that the document is more than 1,000 pages long, though a truly "clean" free-trade agreement could probably be squeezed into a sentence or two. Here are the agreement's main shortcomings:

• *Unfair trade laws.* Under NAFTA each of the three countries may continue to use its anti-dumping and countervailing-duty (anti-subsidy) laws to impose penalty duties on "unfair" imports from the other two countries. The United States just imposed such sanctions on Canadian and Mexican steel, and Canada and Mexico are in the process of doing the same to U.S. steel. On the bright side, NAFTA establishes a dispute-settlement mechanism (based on the one created for the U.S.-Canada Free Trade Agreement) that allows neutral binational panels to review enforcement of these laws.

• *Escape clause.* Under Section 201 of the U.S. trade law, also known as the "escape clause," imports that are causing serious injury to a domestic industry can be limited by tariffs and quotas, even without any proof of "unfair trade." Granting relief under Section 201 is discretionary with the president, though, and as a result the law is seldom used. NAFTA allows the three parties to continue using their escape-clause laws against imports

HENRY PAYNE

from NAFTA countries, subject to various special constraints.

• *Rules of origin.* These arcane provisions set the criteria for determining whether products are made in North America and thus qualify for duty-free treatment under NAFTA—a highly complex endeavor now that raw materials, components, and subassemblies are sourced from all over the world. The rules negotiated in NAFTA are too often skewed in favor of upstream U.S. raw material and component suppliers and against their non–North American competitors. The most egregious examples are in textiles, automobiles, and electronics. Arbitrary origin rules both restrict the benefits of duty-free treatment and divert trade from other regions.

• *Energy.* The Mexican Constitution reserves ownership and exploitation of energy resources to the state. Accordingly, NAFTA was severely limited in its liberalization of the energy sector. Pemex retains its monopoly on oil exploration, production, and refining, and U.S. and Canadian producers are excluded from the Mexican retail gasoline market. But NAFTA does eliminate most investment restrictions on petrochemicals, and it also opens up Pemex and CFE (the State Electricity Commission) procurement contracts to foreign participation.

So NAFTA isn't perfect—big surprise. But does that make it a "managed trade" accord, as some critics have alleged? Managed trade means quantitative controls on trade: import quotas, reserved market shares. Our textiles quotas, the semiconductor agreement with Japan, the various deals allocating international airline routes—those are managed trade.

NAFTA is nothing of the sort. The agreement eliminates tariffs and quotas across the board. It substantially liberalizes investment within the region. It opens up the Mexican financial services sector to foreign competition. It allows cross-border access in trucking. Managed trade is about asserting political control over trade and investment flows; NAFTA is about relaxing and eliminating such control. The fact that it doesn't go all the way in that direction doesn't mean it's going in the opposite direction.

So NAFTA isn't perfect—big surprise. But does that make it a "managed trade" accord, as some critics allege? Not at all. Managed trade is about asserting political control over trade and investment flows. NAFTA is about relaxing and eliminating such control.

The labor and environmental side agreements, on the other hand, do represent an attempt to maintain political control in the face of falling trade barriers. They are repugnant to the liberalizing thrust of the underlying agreement, and they set a very bad precedent for future trade negotiations. They ought to be roundly condemned by free-traders. But as to whether they undo all the good the original NAFTA offers—well, it's not even close.

The side agreements create special supranational bureaucracies to police the enforcement of each nation's labor and environmental laws. If a "persistent pattern of failure to effectively enforce" such laws is found, those bureaucracies can impose fines on governments that refuse to take remedial action and can ultimately impose trade sanctions if the fines aren't paid (or, in the case of Canada, obtain a court order in the Canadian judicial system mandating compliance).

That's the bad news. The good news is that the side deals are concerned only with the *enforcement* of laws. They do not create any new laws, and they explicitly recognize the authority of the three countries to set their own substantive labor and environmental policies. NAFTA establishes no monolithic regional standards according to which sub-

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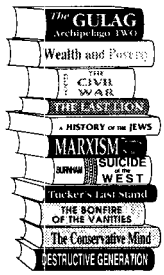

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stantive national policies could be judged and found wanting. And while the side deals impose a duty to enforce laws, they contain nothing that would prevent a country from changing or repealing laws if it wanted to.

The more you look at these side agreements, the less there is to them. Only failures to enforce child-labor, workplace-health-and-safety, and minimum-wage laws are sanctionable under the labor side deal; failures to protect the rights to strike and bargain collectively are not covered. And the environmental side deal does not apply to laws governing the use of natural resources.

Moreover, it is not a violation of the side agreements for a government to fail to pursue legal violations if the inaction "reflects a reasonable exercise of the agency's or the official's discretion" or if it "results from bona fide decisions to allocate enforcement resources to violations determined to have higher priorities." That's a fairly gaping loophole. And the maximum fine that can be imposed is limited to 0.007 percent of the value of North American trade, or a whopping $20 million at present.

The side agreements have absolutely no impact on labor and environmental regulations and add only slight pressure for more vigorous enforcement. So while NAFTA offers gains in trade policy, in terms of labor and the environment it is a wash.

In sum, the side agreements have absolutely no impact on the substance of labor and environmental regulations and add only slight pressure for more vigorous enforcement. Meanwhile, the economic pressures generated by increased competition under NAFTA will be acting to constrain policy makers from imposing excessive burdens on business. In labor and environmental policy, then, NAFTA —even with the side deals—looks like a wash. In trade policy, on the other hand, NAFTA represents a substantial gain.

And that gain goes far beyond the specific reductions in trade barriers contained in the agreement. NAFTA represents a bold and unprecedented experiment: It marks the first time ever that a rich, industrialized country and a poor, developing country have agreed to open their economies to each other. NAFTA can help to show the world that free trade, even between dramatically different nations, truly does benefit both sides.

In this country, it can help to acclimate people to living in an international economy (which they already do but don't fully realize). Once Americans see that open trade with Mexico doesn't cause the world to end or all the jobs to disappear, they may be less resistant to tearing down other protectionist barriers in the future.

On the flip side, NAFTA's failure would be an enormous setback for the cause of free trade here and abroad. In Mexico and throughout Latin America, the perceived betrayal by the United States could seriously undermine support for free trade and free-market reforms generally. And if NAFTA is voted down in Congress, you can bet that the fallout in this country won't be a sudden turn toward unilateral free trade. On the contrary, politicians are going to run away from free trade as though it's radioactive. Meanwhile, NAFTA's defeat will be seen as a big win for Perot and populist know-nothingism.

Unfortunately, the free-trade opponents of NAFTA are lending credence and rhetorical cover to those reactionary political forces. That is especially true of the ones who have been flirting with the Neanderthal right on the issue. It's bad enough to be wrong, far worse to enthusiastically play the useful idiot.

Contributing Editor Brink Lindsey is director of regulatory studies at the Cato Institute.

BETTING AGAINST TIME

BY WILLIAM K. MEYERS

Mexico's president, Carlos Salinas de Gortari, is in trouble. After staking his regime's credibility on achieving a North American Free Trade Agreement (NAFTA), he has lost his two principal political allies, the former leaders of the United States and Canada. Now Salinas finds himself gambling with the explosive lessons of Mexico's past. With barely a year left in office, he is betting against time, a self-serving U.S. Congress, Canada's shifting political mood, and an uncertain world economy. At risk is his party's future, Mexico's political stability, and his mission to bring Mexico into the ranks of First World economic powers. The stakes are high; Salinas's time is short.

No one knows this better than Salinas himself. He must leave office next year. Since the 1930s, no one other than a member of the International Revolutionary Party (PRI) has served as Mexico's president, and the power of each has been limited only by the prohibition against serving more than one six-year term. Given the enormous stakes involved for Mexico, and the unpredictable changes in the political mood of the United States and Canada, would this reformist leader of the PRI dare tamper with the Mexican constitution's sacred "no-succession" clause, one of the few promises of the Mexican Revolution he has not broken?

Salinas's 1988 election was at best a tie; it was popularly perceived as a fraud. No matter what the official polls say, he hasn't shaken that stigma. His opponent in 1988, Cuauhtémoc Cárdenas, has announced he will run again in 1994. A victory by Cárdenas, a former PRI president, would probably mean a reversal of Salinas's market-oriented reforms and a return to Mexico's protectionist past. The last Mexican president who pursued development by opening Mexico to foreign capital—Porfirio Díaz (1875-1911)—was overthrown in this century's first great social revolution. More than a million people, an estimated 10 percent of Mexico's population, died in the Mexican Revolution, between 1910 and 1917. Even if the PRI manages to stay in power, the failure of NAFTA would discredit Salinas's program of liberalization and strengthen the party's old guard.

Salinas is betting against time, Congress, Canadian politics, and the world economy.

So while the foreign press hails him as "Man of the Decade," a "miracle worker," Salinas sees signs that his miracle is slipping away. Worst of all, there is little he can do about it except remain outwardly confident about his policies and the peso's value, ponder a dramatic new economic strategy, and wait on events north of the border.

It is said that three things unite all Mexicans: faith in the Virgin of Guadalupe, Mexico's patron saint; belief you will one day win the national lottery; and distrust of the United States. With his aggressive pursuit of NAFTA, Salinas is promising the second, working against the third, and, by now, probably praying to the first.

Each Mexican president has virtually unlimited power but only six years to establish his place in history. A critical test of his success is how he manages the U.S. government and U.S. capital. The easiest posture is anti-Yankee, nationalistic, and populist.

When Salinas took office in 1988, Mexico presented a formidable challenge. In the face of crippling inflation, rising unemployment, an enormous foreign debt, decreasing exports, and increasing political discontent, Salinas seized the opportunity to shift the course of Mexico's modern development.

He quickly launched an ambitious program to liberalize Mexico's domestic economy, financial system, and foreign-investment policies. He opened Mexico to outside capital, privatized state-owned firms, cut state subsidies and government spending, and dismantled Mexico's agrarian reform policy. Such measures were necessary, he said, to establish Mexico's credibility among the world's developed nations, gain the confidence of business, and increase investment. NAFTA would be Mexico's ticket into the First World.

Salinas's critics charged he was selling Mexico out—putting capital before people and national interests, mortgaging the country's future for a quick fix. Even worse, they claimed, his program required complicity with "Yankee capitalism" and the brute force of the United States, a country that stole over half of Mexico's territory more than a century ago.

For support, Salinas astutely turned to four influential Texans with extensive interests in Mexico: U.S. President George Bush, Secretary of State James Baker, Commerce Secretary Robert Mosbacher, and Democratic Sen. Lloyd Bentsen. In early 1990, shortly after the U.S.-Canada Free Trade Agreement was signed, Salinas formally requested negotiations for a similar pact with the Bush administration. Canadian Prime Minister Brian Mulroney immediately asked that Canada take part in these discussions, and NAFTA emerged as the policy by which Salinas's presidency would be vilified or praised.

Salinas accelerated his economic reforms. Since negotiations with the United States and Canada began, the Mexican government has sold more than 1,000 state-owned firms for more than $21.5 billion,

CONSULATE OF MEXICO

restructured its debt, and cut inflation. These actions have helped repatriate Mexican capital and bolster the confidence of international business leaders while winning the applause of the U.S. and Canadian governments.

Through late 1992 capital poured into Mexico, the Mexican stock market boomed, and Mexican consumers purchased imported goods at a record pace. Internal critics were silenced by economic euphoria (or, on occasion, by the government). Everything seemed on course, and Salinas found himself touted as a visionary and genius for implementing a real solution to Latin America's chronic economic problems. On September 18, 1992, Bush notified Congress of his intent to sign NAFTA. Bush, Salinas, and Mulroney initialed the agreement on October 7.

Since then, things have changed dramatically. As the world recession drags on, Mexico's economic recovery is grinding to a halt; the peso is shaky, exports are falling, and investors grow edgy. Mexican consumers, responding to tariff reforms, are buying U.S. goods at record rates, and Mexico's balance-of-payments gap is widening.

Still, those aren't Salinas's major concerns. Mexico's most powerful citizen faces critical problems that are out of his control. Most conspicuously, his main cheerleader and major political backer, George Bush, is now living in a rented Houston hotel room. Meanwhile, Canadian Prime Minister Mulroney stepped down in June, leaving his successor, Kim Campbell, facing fall elections with an unpopular government and fragmented party. Canada is suffering from a weak economy, high unemployment, and domestic division, especially over Mulroney's free-trade policies.

Opinion polls ranked Mulroney the most unpopular prime minister in this century. Although Mulroney claimed the successful negotiation of NAFTA as one of his main achievements, more than half of Canadians believe NAFTA will hurt their country. A change in government could jeopardize Canada's support for the treaty, and Canada can walk away from NAFTA if the United States backs out. All of these uncertainties complicate Salinas's strategy in preparing for Mexico's 1994 elections.

In the United States, the battle lines in Congress, among lobbying groups, and in popular opinion are already drawn. No one has exploited this better than Ross Perot, constantly referring to the "giant sucking sound" he claims we will hear as jobs move south to Mexico. Perot has gained substantial popular support and press coverage by articulating the job-loss fears of many wage-earning Americans.

And NAFTA is not Bill Clinton's agreement. Since Clinton converted to a pro-NAFTA stance during the campaign, he has insisted that any ratification must include "side agreements" to upgrade environmental regulations, improve labor conditions, provide for displaced workers, and enable the United States to cope with import surges, especially as they affect small businesses. In mid-August U.S. Trade Representative Mickey Kantor announced that these agreements had been completed. The agreements require that the United States, Canada, and Mexico each strictly enforce its own labor and environmental laws, under threat of sanctions or fines. Completion of the agreements cleared the way for Congress to consider ratification of NAFTA in the fall.

Clinton is working with a Congress different from the one that approved a "fast-track" review procedure for NAFTA. The NAFTA debate does not follow party lines, and with job loss a concern that hits every constituency, congressional opposition could be strong. House Majority Leader Richard Gephardt (Mo.) and Majority Whip David Bonior (Mich.) have announced their opposition. On the other hand, NAFTA is one of the few issues where the president has GOP support.

In mid-August, rumors abounded in Mexico that Salinas would delay the cherished "laying of hands" on his successor until he sees how things play out in the U.S. political arena. Traditionally, the president makes his choice in the late summer or early fall to smooth the transition process.

All this waffling by the United States is hard for Mexicans to comprehend. Why are affluent Americans so preoccupied with job loss? An estimated 40 percent of Mexicans are underemployed. Salinas can't wait on the vagaries of our Congress, our courts, our presidential transition, our special-interest lobbying. He must make some decision about the future of his country and his party. He has already gambled enough.

Both Salinas and Clinton are in their mid-40s, Ivy League graduates facing the practical challenge of backroom politics. Both are ambitious and driven, and, beneath their exterior cool, preoccupied with their place in history. While Salinas is maneuvering to assure the future of his party and Mexico, Clinton is striving to restore his party's mission. One has unlimited power but not much time. The other may have eight years but immediately faces a challenge that requires him to pick his way through the minefield of partisan politics, congressional approval, and public opinion.

Clinton has little time to balance the competing interests and give NAFTA the enthusiastic endorsement that will be needed to pass the agreement before January 1, when it is supposed to take effect. Washington's rejection of Mexico's overtures would severely undermine Salinas's legitimacy and his ability to transfer power to his chosen heir. If NAFTA fails or requires further negotiation, Mexico will have to amend its laws, which will revive charges of compromising national sovereignty, selling out to foreign capital, and betraying the revolution's ideals—all in an election year.

Mexico's politicians, businessmen, and intellectuals know NAFTA will happen but that the United States will determine when and in what form. That is a compromise they are willing to accept. After all, never has there been a greater disparity between two economies attempting to form a unified market. In the United States this point is constantly made as an argument for proceeding with caution.

Salinas is wagering the past against the future. It is not a question of how long Mexico is willing to wait, but how long Salinas can wait. Mexicans look to the indirect signs, and in a year when salsa outsold ketchup in the United States, the prospects seem good. It is now only a question of time.

William K. Meyers is an associate professor of Latin American history at Wake Forest University. His book, Forge of Progress, Crucible of Revolt, *will be published by the University of New Mexico Press this fall.*

REPUBLICAN QUOTA FIASCO

BY JOHN HOOD

"They had to give your job to a minority," says the sneering off-screen narrator, as a pair of white hands crumples a job notice and a synthesizer plays a single, ominous musical note. This TV ad, from Sen. Jesse Helms's successful 1990 re-election bid in North Carolina, is one of the most enduring political images of recent years. Rebroadcast constantly throughout the nation, the ad served as a wake-up call about popular resentment of racial quotas.

For liberals and Democrats, it typified—together with the Willie Horton ad of 1988—the inherent racism of modern politics. For conservatives and Republicans, the ad was thrilling: It showed someone was brave enough to bash reverse discrimination directly, and it worked.

Less than three years later, another North Carolina quota controversy made national headlines. This time, the issue was an electoral redistricting plan. Two gerrymandered majority-black districts were struck down by the U.S. Supreme Court. Sandra Day O'Connor, writing for the majority, proclaimed that "racial classifications of any sort pose the risk of lasting harm to our society. They reinforce the belief, held by too many for too much of our history, that individuals should be judged by the color of their skin."

The difference between the 1990 Helms ad and the 1993 gerrymandering decision is that in the latter case Republicans in North Carolina and the Bush Justice Department had favored quotas. In a Faustian bargain replicated in states across the country, North Carolina Republicans allied with leaders of the NAACP and the American Civil Liberties Union to push for as many safe black districts as possible. The strategy was supposed to make surrounding majority-white districts more competitive for the GOP.

While *The Wall Street Journal* and other national organs with reliable conservative credentials have heaped well-deserved scorn on ridiculous gerrymanders in North Carolina and other states, they have largely ignored the culpability of Republicans. As Tom De Witt, a former political aide in the Helms organization, put it, "the Republican Party cynically granted the legitimacy" of racial gerrymandering and thus helped set the stage for the outrageous districts to follow.

Until the Supreme Court decision threw a monkey wrench into the works, North Carolina Democrats couldn't believe their good fortune. After the 1990 census, it became obvious that population growth would add a seat to the state's 11-seat delegation. Democrats feared it would be a Republican one, since population shifts had favored suburban areas where GOP leanings were well established. So when the Democratic leadership in the state House and Senate presented a redistricting plan with a new 12th District (a safe GOP seat) and a new First District (a black-majority one), they thought that was about as good as they could do.

Sure, the plan was silly. One district was soon dubbed a "bug splat." And new computer technology had made it possible for designers to slice through precincts, neighborhoods, and even city blocks. In Charlotte's Mecklenburg County, a grand total of four people—Benny Reeder, his wife, and two neighbors—were scooped out of the Ninth District and placed in the 12th, just so voter totals would be perfectly even. Reeder's memorable comment at the time was that he didn't much care about his reassignment, since politicians "pretty much do what they please anyway."

But Democrats couldn't do any better if they wanted to keep party incumbents happy, which is usually a good idea. So they handed Republicans a safe seat, while whittling away halfheartedly at a couple of other GOP districts.

Republican aspirants to the 12th District spot popped up almost immediately. Alan Pugh, a telegenic lawyer in former Gov. Jim Martin's administration, resigned his job and started assembling a campaign war chest and organization, aided by popular GOP donor and race-car driver Richard Petty. Other challengers also salivated at the prospect of snagging, and presumably keeping, the new seat.

For Republican leaders, however, the Democrats' offer wasn't sufficient. David Balmer, a boyish Charlotte lawyer and soon-to-be minority leader in the N.C. House, stepped forward with some alternative maps. He proposed that at least one more minority district, encompassing blacks and Indians, could be

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drawn in the southeastern part of the state. Not coincidentally, drawing such a district would make as many as five Democratic districts suddenly competitive. Because of Balmer's maps, the U.S. Justice Department decided to reject North Carolina's redistricting plan, on the grounds that it didn't draw enough minority districts.

Many black activists seized on the Balmer plan as a way to gain another seat. The ACLU also weighed in to favor the second district. Only a few Republicans fidgeted at the prospect of gaining power, potentially even control of the state's congressional delegation, by embracing racial quotas. And Democrats—including some black leaders, such as House Speaker Dan Blue—saw political disaster in the offing. They stressed the need for blacks and whites to work together to elect candidates and pointed to the success of Harvey Gantt (Helms's 1990 opponent) in attracting significant white support to prove that racial gerrymandering wasn't needed.

Even Lani Guinier, still relatively obscure at this point, weighed in to suggest "cumulative voting" as an alternative to further gerrymandering. Guinier suggested that all 12 members of Congress be elected statewide, with each voter receiving 12 votes to cast however he or she wished. "The advantage of cumulative voting," she said, "is...it doesn't give incumbents the great control over their political fortune that districts do." Gantt's campaign manager, Charlotte lawyer Mel Watt, typified the Democrats' conflict: "We need to create minority districts whenever we can, but teaming up with the GOP could be devastating."

Naturally, North Carolina's Democratic congressmen agreed with Watt, but not with Guinier. That's why Rep. Charlie Rose of the Seventh District—whose chance to become speaker of the house would disappear, along with his seat, with the introduction of Balmer's district or cumulative voting—stepped in.

John Merritt, an employee of the House Administration Committee, which Rose chaired, showed up in the state capital with an ingenious solution. Draw a second district, he said, but not through Democratic areas in southeastern North Carolina. Instead, draw it along the "Interstate 85 corridor" in the center of the state, right through Republican-leaning areas. Of course, Merritt assured everyone who would listen, this was not an official Rose proposal, just an "option for legislative consideration."

The district Merritt mapped out became the infamous "snake" district about which Justice O'Connor wrote, "It is unsettling how closely the N.C. plan resembles the most egregious racial gerrymanders of the past." For Democratic congressmen such as Rose, the new district now posed no problem at all. For Mel Watt, who had worried about GOP perfidy, the map was even more welcome. He promptly announced his candidacy and eventually won the seat. Even Republican incumbents benefited, as black enclaves in their districts were carved out and tethered to the I-85 district.

More important than the electoral fallout of the new districts was the loss of a coherent message about quotas and reverse discrimination. Even though Republicans could claim to be the victims of partisan line drawing, they had handed Democrats the pencil.

Who lost? Pugh and other GOP hopefuls suddenly found themselves without a district to run in. On election day, the Republicans actually lost ground proportionally—the congressional delegation went from a seven-four Democratic advantage to an eight-four Democratic edge. The state party avoided total catastrophe only because Republican freshman Charles Taylor narrowly won re-election in the mountainous 11th District, the most competitive in the United States during the 1980s.

As the pattern of Justice Department collusion with civil-rights lobbies was repeated across the country, voters were presented with new, often incomprehensible political districts in such states as Louisiana, Texas, Maryland, Illinois (home of the "earmuff" majority-Hispanic district), and Virginia, where Gov. Doug Wilder and other black politicians had, after all, already been elected in white-majority areas.

More important than the immediate electoral fallout, however, was the loss of a coherent message about quotas and reverse discrimination. Even though Republicans in North Carolina and nationwide could legitimately claim to be victims of partisan line drawing, they had handed Democratic lawmakers the pencil. For Republican cynics, collusion with the quota lobby amounted to stammering: "Message: We don't care."

John Dunne, the Bush Justice official who carried out the collusion strategy, tried to defend himself by arguing that the Voting Rights Act demanded as many minority-leaning districts as possible. But that interpretation was not at all mandated by precedent or policy. "The Justice Department was overzealous," says Michael Hess, the new Republican National Committee chief counsel, who is departing from previous GOP strategy.

And even if the law did appear to mandate racial gerrymandering, why not stand up and fight for principle? After all, "race may still have much to do with the way people vote, often too much," writes voting-rights scholar Abigail Thernstrom. "Reality is not perfect, but our principles should remain so. We need electoral arrangements that deliver the right messages." But, of course, we are talking about the Bush administration.

The Supreme Court, however, deserves no kudos for its role in the redistricting fiasco. It could have taken the opportunity presented by the North Carolina case and others to define neutral principles to guide districting plans, such as the strict compactness standard pro-

posed by Daniel Polsby and Robert Popper for the Heartland Institute. So could the Republicans, while they enjoyed at least nominal power in Washington.

Instead, lawmakers in both parties are left with the Court's unsatisfying conclusion that North Carolina's plan "bears an uncomfortable resemblance to political apartheid" but that no clear-cut rules exist for judging Voting Rights Act claims. What will pass muster? It's anybody's guess.

By the way, Popper, a litigation attorney with Sidley & Austin in New York City, has a unique take on the much-repeated allegation that "Mickey Mouse could draw better districts" than North Carolina's legislature did. Popper actually drew a district in central North Carolina in the shape of Mickey Mouse and then measured it using the ratio of the district's perimeter to its area. The Mickey Mouse district, Popper says, "would be four to five times more compact than North Carolina's 12th District" using that compactness measure. And that, Popper adds, even includes Mickey's "long, non-compact tail."

Perhaps state legislators across the country should hire a few cartoonists to help them with the political redistricting lines. The way things are now, it truly couldn't get much worse.

Perhaps state legislators across the country—lacking guidance either from the Court or (apparently) from neutral principles of equal opportunity under the law—should hire a few cartoonists and see what they can come up with. It truly can't get much worse.

Contributing Editor John Hood is vice president of the John Locke Foundation in Raleigh, N.C., and a columnist for the N.C. Business Press Syndicate.

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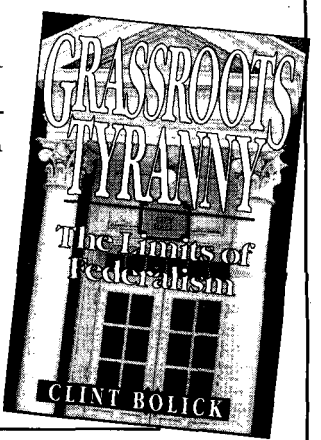

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FAITH, HOPE, AND WELFARE

BY MARTIN MORSE WOOSTER

The debate over American politics in the 1990s is becoming increasingly spiritual. The left discusses the "politics of meaning"; the right quarrels over "family values." The reasons for this debate are grounded in the nature and limits of government.

The problems of the welfare state are primarily moral and cultural. Put the 50 best poverty fighters in America in a room and ask for a consensus, and they will likely tell you that someone who graduates from high school, gets a job (*any* job), and marries will not be poor.

But government has a very hard time dealing with moral issues. Government is all stick and no carrot; it is very good at beating the public with regulations, taxes, quotas, fines, and legalisms, but very bad at inspiring people to lead a just and decent life.

In welfare, for example, the state can generate volumes of regulations mandating workfare programs. It can create welfare offices that are hellish. But it cannot persuade troubled urban youth to postpone childbearing, or teach the underclass about the merits (and means) of joining the work force. In educational matters, the U.S. Department of Education can generate thousands of pages of national goals and regulations, but there is no evidence that any federal report ever inspired a child to study hard or to love learning.

So thoughtful Americans on the left and right have begun to wonder if the only tool government can use is a bludgeon. Can't the state persuade people to lead good lives? Is politics something better than an endless power struggle between special interests?

These questions are at the core of the debate over religion and politics. The left and the right choose to answer them in different ways.

The liberal debate over religion has been quietly going on for years, with the rise of the communitarians and with the endless editorials in *Tikkun* advocating therapeutic government. But the liberal debate was energized by Hillary Clinton's endorsement of the "politics of meaning."

We knew during the campaign that Hillary Clinton was a Methodist, but while there was extensive coverage of Bill Clinton's religion, no one thought that Hillary's churchgoing was very interesting. The story the press told us was that the Clintons were a modern couple—they went on separate vacations and went to separate churches.

Government is all stick and no carrot. It is very good at beating people with regulations, taxes, quotas, and fines, but very bad at inspiring its citizens to lead just and decent lives.

But the First Lady had read Tillich and Niebuhr and Bonhoeffer, and spent a good deal of time talking to theologians about the meaning of life. And as Michael Kelly reported in the May 23 *New York Times Magazine*, Hillary Clinton had begun to preach "the politics of do-goodism, flowing directly from a powerful and continual stream that runs through American history from Harriet Beecher Stowe to Jane Addams to Carry Nation to Dorothy Day....the world she wishes to restore [is] a place of community and clear moral values."

Certainly this interest in morality makes Hillary Clinton more interesting than she was in the campaign. And if she limits her role as moral mandarin to asking questions and promoting debate, she will be performing a useful task. But as Kelly observes, "if it is necessary to remake society, why should Hillary Clinton get the job? Can someone who helped lead the very generation who threw out the old ways of moral standards and societal standards now lead the charge back to the future?"

And while it is unclear what Hillary Clinton believes the "politics of meaning" to be, *Tikkun* Editor Michael Lerner thinks the phrase is a synonym for meddling, intrusive government. In the May/June issue of his journal, Lerner calls for such "reforms" as imposing government mandates "to ensure that the work that is available gets redistributed in such a way that everyone has employment, even though that may mean that each person only works thirty or thirty-five hours a week." Lerner also calls for banning corporations from moving or closing their plants unless they produce "a social-environmental impact report on the human consequences. Corporations would be fined, up to confiscatory levels, for those moves that negatively effect the health of the community."

But an America with German-style workplaces and Scandinavian unemployment benefits would be a society with European unemployment rates. It is hard to see how increasing unemployment would be caring or compassionate, but such are the consequences of Lerner's ideas.

While the religious left was redefining itself, their conservative counterparts were still recovering from the presidential elections. Last year, the religious right had more power in the Republican party than they have ever had, but their efforts certainly did not help George Bush and may have harmed him. In the February 17 *Christian Century*, Furman University political scientist James L. Guth and three collaborators calculated that evangelical Christians currently constitute 25 percent of the electorate, including 4 percent that are evangelical but do not belong to a particular church. Of this group, 62 percent of people who called them-

selves evangelical or fundamentalist Christians voted for Bush. "In short, Bush held evangelicals to a remarkable degree," said Guth and his associates, "Indeed, they were the core GOP vote."

But when exit pollsters asked voters what their *primary* concern was in the election, 15 percent said it was "family values," and 12 percent reported it was abortion (including pro-choice voters). However, 42 percent of those surveyed were most concerned about jobs and the economy, and 14 percent about taxes; a majority of these voters backed Clinton. Even among evangelicals, 28 percent said their primary concern was the economy, and this subgroup gave 40 percent of their votes to Bush and 40 percent to Clinton.

Moreover, Guth et al. argue, doctrinal differences among Christians matter, and "no one has yet created an organization attractive to all segments of the evangelical community. Charismatics distrusted Falwell, fundamentalists disliked Robertson, and mainstream evangelicals and Southern Baptists were skeptical of both." Mormons, Catholics, and orthodox mainline Protestants may be concerned about moral questions, but they are highly skeptical of the religious right.

And as Evan Gahr reports in the August 2 *Insight*, the opinions of Jewish conservatives also differ from those of their Christian counterparts. For example, there is debate on the Jewish right about methods and motives. While *Boston Herald* columnist Don Feder told Gahr that he believes in imposing his values on others because "all legislation is morality legislation," author Michael Medved said that "what the new Jewish right can accomplish is to depoliticize Judaism, not substitute one orthodoxy for another."

It is also unclear what effect these Jewish conservatives will have on their predominantly liberal brethren. American Enterprise Institute pundit William Schneider observes that the cliché that Jews live like Episcopalians but vote like Puerto Ricans is still true.

The more thoughtful Christian conservatives, however, are siding with Medved and reducing their emphasis on seizing Washington. In the summer *Policy Review*, Christian Coalition executive director Ralph Reed Jr. observes that if the religious right continues its course, it may end up as uninfluential and faction-ridden as other social-change movements after their charismatic leaders died or became disgraced. Cesar Chavez, Reed observes, was successful in the 1960s with his hunger strikes and grape boycotts. But because Chavez never modified his militant tactics, his United Farm Workers of America shrank and his influence fell.

Such a fate, warns Reed, awaits evangelical Christians if they continue to concentrate "disproportionately on issues such as abortion and homosexuality." Reed urges his colleagues to address economic issues that would ensure that two-parent families become secure and stable, including raising the standard tax deduction for dependents, adopting school choice, and fighting crime.

If politics is to have any meaning, it won't be from "politics of meaning," or from political speeches, but from local efforts to make communities safe and decent places to live.

"The pro-family movement will realize many of its objectives if it can begin to speak to the issues that concern the voters," Reed writes. "Diversifying one's investments applies to political capital as well as financial capital."

It would be an equally salutary change if the members of the press who write about religious conservatives would realize that devout Jews and Christians are not villains or rednecks, but people whose concerns are a necessary and vital part of American life. "Don't treat leaders, activists, or members of religious right groups with condescension and don't stereotype them," warns *New York Observer* executive editor Joe Conason in the July *Columbia Journalism Review*. "No one likes to be treated as a stereotype, and to do so is bad reporting, which will cost the reporter useful information."

That such a statement is necessary says a great deal about the American press. I could not imagine Conason being compelled to make a similar remark about coverage of blacks, gays, or environmentalists.

A useful tool for journalists or anyone else interested in religious trends is *Religion Watch*. Editor Richard Cimino reads far more magazines than I do, and he summarizes articles in a manner so fair and objective that I cannot tell if he is a liberal or a conservative. This immensely interesting monthly newsletter is published at P.O. Box 652, North Bellmore, New York 11710. One year's subscription is $19.95.

It would also be an advance if Americans concerned with ethical matters reduced their reliance on the state. If politics is to have any meaning, it will not be from "the politics of meaning," or from any speech by any politician living inside the Washington beltway, but from local efforts to make communities safe and decent places to live.

Moreover, the large national churches would improve themselves if they spent less money on lobbyists and more money on charity. The mainline Protestant churches could stand to slash the offices that pontificate on Central America and income redistribution; the Southern Baptists and their allies might try to reduce their statements on homosexuality and on school prayer.

As Danny Duncan Collum reminds us in the September/October *Utne Reader*, Jews and Christians of the left and right can find common ground. Those on the right are becoming more compassionate toward minorities and people with AIDS; those on the left are more worried about protecting their children from violence. But to learn to work together and like each other, religious Americans should retreat from a cutthroat political arena that will not, and cannot, address ethical or moral concerns.

Contributing Editor Martin Morse Wooster is a visiting fellow at the Capital Research Center.

Cashing in on Bonds

BY LOREN E. LOMASKY

The Spirit of Community, by Amitai Etzioni, New York: Crown, 323 pages, $22.00

An early theorist of the market system observed of the man who trades in his plow for the higher income that goes with a factory workbench: "While he remains in a country village his conduct may be attended to, and he may be obliged to attend to it himself. In this situation, and in this situation only, he may have what is called a character to lose. But as soon as he comes into a great city, he is sunk in obscurity and darkness. His conduct is observed and attended to by nobody, and he is therefore very likely to neglect it himself, and to abandon himself to every sort of low profligacy and vice."

Karl Marx on alienation? No, Adam Smith on the human costs of urbanization. The great evangelist of proto-capitalism was, of course, a passionate and persuasive advocate of free markets, but he did not believe that market arrangements by themselves were sufficient for a society's health. Indeed, Smith was willing to bend the principles of laissez-faire in the cause of promoting a virtuous citizenry. So were the American Founders, especially Jefferson, who considered a disciplined, self-reliant yeomanry a prerequisite to the new republic's flourishing.

In our own time, Charles Murray has eloquently diagnosed the "obscurity and darkness" of America's great cities. Somewhat more ambiguously, the Republican right's call for a return to "family values" bespeaks devotion to old-fashioned virtue. (It also trades, as anyone who watched the 1992 convention knows, on more than a little old-fashioned bigotry.) But willingness to proclaim and defend moral values, argues Amitai Etzioni, should not be ceded to conservatives as their exclusive territory, and in *The Spirit of Community* he unabashedly offers from the (moderate) left a prescription for the moral renewal of America. Or rather a multitude of prescriptions, for the pages of this book overflow with specific policy proposals, some clever and promising, others a rehash of old nostrums that age has not improved. The social vision they are meant to express and enhance is dubbed Communitarianism.

Etzioni's accurate diagnosis of community degenerates into campaign-style rhetoric.

Particular caring communities, maintains Etzioni, are the fount of values from which the greater society receives sustenance, but in recent decades these communities have become badly eroded. The rot starts with the primal community, the family. Divorce, illegitimacy, and two-income households in which parents value money over time deprive children of adequate supervision and example. No easy talk about "quality time" erases the fact that too many children aren't getting the hours they need with a committed mother and father. Nor are shortfalls in the family made good elsewhere. Schools don't function adequately as parent substitutes; they don't even function adequately as schools. The predictable consequence is that kids get into trouble and fail to learn what they need to become productive workers and citizens.

Other communities, too, are at risk. Neighborhoods, even when not posing imminent danger to life and health as so many in the inner city do, are enclaves of anonymity and generalized lack of concern. Universities that ought to function as bastions of free speech instead give themselves over to the manufacture of codes of repression. The political processes of municipalities, states, and the federal government no longer work for the common good but spin to the tune of special interests. On all levels, claims Etzioni, social gears are badly in need of lubrication.

This is discomfortingly accurate, if not in every detail then in the overall picture. And it bears saying that in the liberal circles in which Etzioni most often travels it takes some courage to plainly state these facts without hiding behind a barrage of politically correct euphemism. Still, one might ask, "So what else is new?" There is nothing in this catalog of laments that we haven't heard before—and heard, and heard. A further recitation is worthwhile only to the extent that it is packaged in a way that enables us better to diagnose the source of the pathology and then treat it.

Etzioni sees attention to community as providing that understanding. Each of these problems, he contends, is symptomatic of the decaying moral infrastructure of our society. Too many of our efforts as individuals and as a polity are aimed at securing purely private goods, and not enough goes toward cooperative activity for the sake of a common good. We're all the time minting and claiming for ourselves heretofore unknown rights to whatever may happen to be an object

BILL DENISON

of desire while simultaneously disclaiming responsibilities to others. While there is blame enough to go around, the worst offenders, Etzioni maintains, are "Radical Individualists, such as libertarians and the American Civil Liberties Union." They need to be resisted so as to restore a balance now badly out of whack between public and private.

Part of this analysis rings true. Etzioni correctly notes that the state increasingly takes over functions once primarily carried out within families (such as care of the elderly) and by ethnic fellowships (settlement of new immigrants), preempting and thereby sapping the vitality of these voluntary associations. And one can enthusiastically concur in his excoriation of an overinflated rights talk that, by turning expressions of preference into non-negotiable demands, elevates the decibel level of controversy between groups and renders compromise unattainable. Unfortunately, though, too much of *The Spirit of Community* is pitched at a level of superficial campaign-type rhetoric and too much is simply confused.

Etzioni supports mandatory seat-belt and motorcycle-helmet laws, and libertarians who oppose such legislation as paternalistically intrusive are faulted for failing to take account of the fact that those injured in crashes "draw on our community resources, from ambulance services to hospitals, when they are involved in accidents, for which they pay at best a fraction of the cost." Assuming that's so—no evidence concerning costs is presented—why are these people able to tap community resources? Because the state effects transfers to the unlucky or improvident. And how does it justify such redistribution? On the grounds that individuals have a right to be taken care of, regardless of whether it was their own ill-considered choices that laid them low.

Why, we might well ask, doesn't Etzioni roll out his condemnation of proliferating rights claims here? It would seem exquisitely appropriate. Instead he unquestioningly underwrites a blank check on the public treasury, the obverse of which is an open-ended justification for abridging people's liberty to engage in risky behavior.

And more generally with regard to liberty, *The Spirit of Community*'s signals are mixed. To his credit, Etzioni staunchly defends freedom of speech against the new campus Jacobins. However, he opposes the legalization of drug use on the grounds that laws "communicate and symbolize those values that the community holds dear" and repeal would imply "the community approves of people being in a drug-induced stupor." But proponents of restrictive speech codes can make exactly the same claim about the importance of symbolizing the academic community's values. So in opposing those codes doesn't Etzioni, by his own logic, exhibit approval of racist and sexist hate talk? Apparently that's not something he has thought through. Nor does this defender of communities take due account of the devastation unleashed on so many of them by crossfire from the war on drugs. And even if we set these points aside, it's grotesque to suppose one enjoys carte blanche to communicate and symbolize values by tossing tens of thousands of people into jails.

The state has taken over functions once handled by families (care for the elderly) and ethnic fellowships (settlement of immigrants), thereby sapping the vitality of these voluntary associations.

Etzioni assigns Congress and state legislatures failing grades concerning their service to the citizenry. There are few this side of Dan Rostenkowski who will demur. The more fruitful question is why they perform so wretchedly. Etzioni labels PACs the chief villains; legislate them out of existence, and our political units will no longer pander to special interests but will instead refocus on the public interest. That's naive.

First, it trades on an ill-defined dichotomy between interests that are deemed to be "public" and those that are merely private. But no such dichotomy can be sustained in practice. To which variety of interest does the government respond when it appropriates disaster relief to washed-out Iowans, makes the most-favored-nation status of a country dependent on its human-rights record, builds a multi–billion-dollar atom smasher in Texas and a Holocaust memorial museum in Washington, permits homosexuals to serve in the military, won't allow 18-year-olds to buy beer, awards grants to performance artists, grades meat?

Etzioni doesn't begin to provide a basis for making such discriminations. He cites one example of an organization that he believes serves a genuinely public interest, the Sierra Club, but that's just trendy hand waving. When the political dice are tossed they fall to the advantage of some persons and the disadvantage of others, whether those people happen to be corporate investors or folks who can't bear the thought of spotted-owl habitat being disturbed. Winners and losers are of the nature of the game; what is variable are the identities of the players and the value of the stakes.

That indicates a second respect in which it's naive to suppose that elimination of PACs would effect some fundamental change in legislative directions. Each year Congress, through action or inaction, brings about the redistribution of hundreds of billions of dollars from some citizens to others. State legislatures also create and destroy vast fortunes. For entirely understandable reasons, then, substantially affected parties will invest heavily in the purchase of political influence.

PACs are currently a favored means for making such investments, but if they were outlawed others would take their place. In Italy and Japan, for example, simple bribery is still very much the order of the day. No matter how many moral crusades are launched, no matter how insistently the regulatory environment is tweaked, we can be sure that there will be no lasting diminution in the intensity of the competition to secure from the state special favors unless and until its capacity to bestow such largesse is curtailed. A conspicuous weakness of the Communi-

tarian program as presented here is that it turns a blind eye to systemic political sources of social pathology.

Elsewhere Etzioni has shown himself to be a social scientist of unusual intelligence and originality, so one comes to *The Spirit of Community* anticipating a provocative and thoughtful analysis. Instead one is sideswiped by a book that is theoretically jejune, disfigured by clichés, carelessly composed, and demonstrably mistaken on numerous matters of fact. Three examples:

- On page 235 Etzioni endorses a limit of $250 on individual contributions to politicians, but eight pages later the limit has mysteriously shrunk to $100. So much for attending to the innards of one's own proposals.
- Airlines, Etzioni complains, have become less safe and turned monopolistic since deregulation. That's exactly backwards. Deaths per passenger mile on scheduled air services have decreased since deregulation, and this "monopoly" has competed its way to losses approaching $10 billion over the last four years.
- The overworked characterization of the 1980s as a "decade of greed" is trotted out over and over again but never supported by evidence; presumably no one of good character will suppose that the years of Reagan and Bush could be anything else.

And so on. Why these lapses by an author who has shown himself to conspicuously better advantage elsewhere? As clear as the photo on the dust jacket of Etzioni huddled cheek-by-jowl with Al Gore, this is a man who has been bitten, deeply, by the political bug. He dreams of being the guru of a vast Communitarian movement (revealingly, the term is always capitalized). "Do not just read this book," Etzioni urges, but respond, get involved, form a local Communitarian chapter. To inspire reader activism he solemnly recounts how under unfavorable conditions he convened the initial meeting of the founding 15 Communitarians; their wonder and exhilaration as favorable reviews in *The Washington Post*, *Time*, and other popular media streamed in and foundations inquired as to whether it would be all right for them to send money (Etzioni said yes); and then the epochal November 1991 teach-in attended by four U.S. senators, two of them actually card-carrying Republicans!

The times, Etzioni thinks, are auspicious for a grand Communitarian revival, but how to take advantage? He realizes that one isn't likely to catalyze a social movement by writing a soberly academic book, so here he deliberately dumbs it down. The theory, if one may call it that, is Communitarianism Lite, pleasantly vague and just one calorie per helping. Its central concept, community, is never defined, and everything from a married couple to a geographically dispersed profession to the United States as a whole—"the community of communities"—is indiscriminately tossed into the pot.

Gimmicks for social melioration abound, but they are neither defended against obvious criticism nor evaluated against feasible alternative policies. Every good thing is endorsed even though the mix be inconsistent. That is to say, the literary genre is that of a major-party platform, the salesmanship's zeal and zingers are pure Perot, and the moral earnestness is first cousin to Hillary Rodham Clinton's "politics of meaning." If Amitai Etzioni doesn't have a winner here, it's not for lack of trying.

Contributing Editor Loren E. Lomasky, a professor of philosophy at Bowling Green State University, is co-author (with Geoffrey Brennan) of Democracy and Decision: The Pure Theory of Electoral Preference *(Cambridge University Press).*

The Killing Grounds

BY RICHARD A. EPSTEIN

Life's Dominion: An Argument About Abortion, Euthanasia, and Individual Freedom
By Ronald Dworkin, New York: Alfred A. Knopf, 273 pages, $23.00

In *Life's Dominion*, Ronald Dworkin addresses two of the burning issues of our time, one dominating the beginning of life and the other its end. On the question of abortion, Dworkin marshals a wide array of philosophic and legal arguments to defend the Supreme Court's decision in *Roe v. Wade*, which guaranteed each woman a constitutional right to abortion. With regard to euthanasia, Dworkin defends the right of each individual, again on philosophic and constitutional grounds, to end his life when his personal condition is one of endless misery or falls into the void of a permanent vegetative state.

Dworkin's performance in *Life's Dominion* will entrench his reputation as a scholar able to amaze but not to persuade. His ingenuity generates breathless arguments that always seem too clever by half. His opponents will admire his verbal skills but wish they could be put to better use. His supporters will, in the end, look elsewhere to make their case. I have both reactions, for I tend to agree with Dworkin's defense of the right of euthanasia and to disagree with his defense of abortion. Why this divided response?

Dworkin's opening salvo announces the major theme of his book: "Abortion, which means deliberately killing a developing human embryo, and euthanasia, which means deliberately killing a person out of kindness, are both choices for death. The first chooses death before life in earnest has begun, the second after it has ended." Just this quickly does his argument go astray. He seeks to create a parallelism between abortion and euthanasia by the repetition of the phrase "deliberately killing" in both contexts. But this first sentence is remarkably unresponsive to the paramount questions of interest, consent, and choice.

The killing that is done in an abortion is done by the mother to the embryo, without its consent and against its interest. Yet so long as we believe in the maxim "preserve life," we would be reluctant to infer that any fetal consent is (or by a disembodied rational agent could be)

forthcoming to justify the mother's actions. Quite the opposite inference seems plausible, for the destruction of the embryo or the fetus ends any and all prospects it has for human happiness and joy; yet the mother's interest in terminating pregnancy often represents a preference no weightier than postponing a child until a more convenient or less embarrassing time. On some unfortunate occasions, more-serious circumstances intervene—preservation of the life of the mother against threatened medical complications; the emotional trauma of having to give birth to a child conceived by rape or incest; or the birth of a child known to suffer from some terminal illness, such as Tay-Sachs disease.

So there is a wide range of cases to be dealt with. One possible approach is to borrow from John Rawls (whose own writing is silent on the question of abortion) and ask what choices we would make about abortion rights if forced to do so from behind a veil of ignorance. If a person does not know whether he or she will be in the position of the woman seeking the abortion or the fetus that will be aborted, what rule of decision would that person choose to maximize the welfare of both? Here it seems that the loss of one's own potential life is a far greater loss than the gains on the other side, so that a disembodied view of the subject would incline toward the protection of a fetus against the aggression of its mother, even if one does not think that the fetus is a person at the time of an abortion. If we put aside the three difficult cases just mentioned, I think that it is highly likely that each of us would be prepared to surrender any future right to abort in order to escape today the finality of an abortion.

It is in the stark nature of this choice that one finds the sensible core of a pro-life position. When Dworkin says the abortion "chooses death before life in earnest begins," he is engaged in one of his innumerable verbal ploys. Only people, not impersonal processes, are capable of making choices. Here the mother has an acute conflict of interest with her fetus, which is hardly in a position to protect itself against her actions, or to consent to the destruction thereby caused. The persistence and strength of that conflict appears to justify legal intervention to limit the mother's choice.

One surely looks askance at a mother who drinks and smokes during pregnancy, to the detriment of her offspring, because the conflict of interest is so evident. From time to time prosecutors have brought actions against women who have taken cocaine or other drugs during pregnancy. Where these efforts have foundered, it has not been on the soundness of the underlying normative theory. Rather, the prosecutions have typically failed because the applicable criminal statutes on homicide or child abuse have not given clear notice that they reach these cases, or because the entire matter has been caught up in the wake of the abortion question, or because difficulties of proof could not be overcome on such questions as whether the woman knew she was pregnant when she ingested dangerous substances. Yet whatever these statutory or practical difficulties, the desire to protect an unborn fetus, whether or not born alive, against the abuse or neglect of its mother is certainly an appropriate end of state intervention. Why, then, should we be legally indifferent to her decision to abort?

Euthanasia is also normally about consent. I know of no one, either in Holland or in the United States, who thinks that physicians, even when acting out of mercy, should have the right to decide whether their suffering patients should live or die. Rather, those who support euthanasia generally argue that when persons find themselves in positions of extreme pain and suffering, they should be allowed to end their own lives. And if incapable of doing so, they should be able to ask someone to help them achieve one of life's ends, even if that end is death.

The opposition between abortion and euthanasia is not the simple temporal opposition that occurs because one takes place at the beginning of the life cycle and the other at its end. It is that one takes place with the consent of the party killed and the other takes place without it; it is that one process opposes interest, and the other follows it. Too often the right-to-life movement, in its uniform opposition to both abortion and euthanasia, ignores these distinctions. Likewise Dworkin for his own ends manages to obscure these critical differences by making the inverse error. The basic respect for individual autonomy, which grounds the right to make choices about one's own life's chances, supports his position on euthanasia. By the same token, it cuts squarely against his abortion position.

Dworkin, then, is swimming downstream on euthanasia but upstream on abortion. His upstream activity requires far greater attention. Dworkin's key effort to win over his wary audience on the right to abortion is to make what he deems to be "a critical distinction" between the "derived" and the "detached" forms of opposition to abortion. The intended meanings of these terms do not leap out at the reader. In Dworkin's novel lexicon, a "derivative" claim holds "that a fetus already has interests and rights of its own from the instant of conception, and that abortion is wrong for that reason." A "detached" claim, by contrast, says "that from the moment of conception a fetus embodies a form of human life which is sacred, a claim that does not imply that the fetus has interests of its own."

Dworkin's basic position is that all of us, friends and foes of abortion alike, will discover, once we reflect on the question, that in truth we believe in the detached

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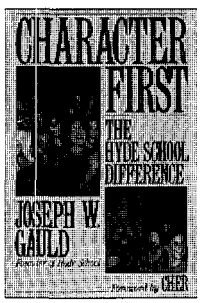

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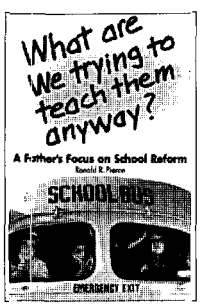

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and not the derived form of the claim. Indeed, precisely because Dworkin believes that both sides of the debate share the same philosophical commitment, that rapprochement is possible. But he does not offer a fair exchange. The pro-life people come away with the consolation prize of knowing that the interests they seek to protect are "sacred," but the pro-choice crowd brings home the bacon because sacred interests do not give rise to any legally enforceable claims against the mother. Sacred concerns are matters of conscience, or more often religion, and for that reason Dworkin believes they are not the stuff of law.

The pro-life people come away with the consolation prize that the interests they seek to protect are "sacred." Yet sacred concerns are matters of conscience or religion, and for that reason Dworkin believes they are not the stuff of law.

How does Dworkin know that the pro-life position is detached rather than derived? He argues that any search by pro-life forces for an intermediate position implicitly repudiates the notion that the fetus has protectable interests of its own from the moment of conception. He claims pro-life forces would realize this point if only they stopped to reflect on the question. They are trapped, as it were, by their capacity for rational discourse. If they believed that the fetus had interests of his own, then, says Dworkin, they could not accept the possibility of abortion in defense of the mother's life, in the case of rape or incest, or for Tay-Sachs disease. But he never explains why the acceptance of abortion *for cause*, however defined, is tantamount to saying that the fetus has no interest protected under the law.

Indeed, just the opposite inference is in order. No one would say that ordinary people have no legal protection against murder because of our detached view that human life is sacred. Ordinary people recognize that they have rights; yet they think that these rights could be forfeited for a number of reasons. Person A may be permitted to kill Person B if subject to B's serious personal attack that cannot be avoided by escape or neutralized by lesser force. And it is the better view, I believe, that the right in question could be exercised even if the assailant is insane or otherwise excused from criminal responsibility. To be sure, in such a case both the assailant and the victim are "innocent," but one has the innocence of a victim and the other that of an aggressor. I can pick between these two persons in a do-or-die situation.

The self-conscious effort to balance interests in this example offers some clue as to how to think about abortion. Initially, no one takes a detached view of fetal life, any more than they do of other life. Certainly the pro-life forces use their powerful films on what an abortion does to make their opposition as visible and concrete as possible. Yet there is still the question of balancing interests, even if abortion is presumptively wrong. For example, the life of the fetus may be sacrificed if it endangers the life of the mother, so long as lesser means cannot avert the conflict.

Not all justifications take the form of self-defense: With the Tay-Sachs infant, the argument is that the life of the fetus is not worth living, so abortion (or infanticide) is justified by very stringent criteria. The hardest cases are perhaps those of rape or incest, where the offspring is innocent, but the mother has been subject to a manifest violation of her own rights that is now said to create obligations that could last a lifetime. Yet to engage in sorting out these cases is not an implied admission that a fetus has no rights, save those allowed under Dworkin's detached view. It is better to say that a fetus has a prima facie right to life that can be overridden on some special showing.

Nowhere does Dworkin explore these possibilities or expose their complexities. He thinks the only choices are that abortion is homicide or that it is legally protected, notwithstanding the fact that any

decision to abort is morally more problematic than a tonsillectomy. But any discourse that recognizes the soundness of abortion for cause necessarily undercuts the case for abortion at will. Where justifications fail, we could think of excuses for the mother that mitigate the severity of the charge, even if they do not justify her choice. We may understand why the mother aborts, yet think that third parties should be punished for supplying the abortion. None of these nuances surface anywhere in Dworkin's lengthy argument.

Contrary to Dworkin, we have this rich set of legal choices because life "in earnest" does in some sense begin at conception. Consider the implicit commitments on the status of the fetus when the danger to it comes from any party other than the mother. Do we want to say that a forced abortion by a third person at any stage of pregnancy is simply an attack on the mother, and perhaps an affront to some diffuse moral interest? Or are we willing to say that the attack on the mother is also the taking of her child's life? That is just how she would describe it in her grief. The latter view seems correct. So the normative debate is about the extent and grounds for legal intervention, not solely about moral philosophy. Everyone on the pro-life side takes the "derived" view, and rightly so. Dworkin's critical distinction is a non-starter.

Dworkin is no more successful in his efforts to disentangle the question of abortion from the law by taking a (scarcely acknowledged) leaf from Laurence Tribe's early writing, which argued that abortion should not be subject to criminal sanctions because the opposition to it so often rests on religious grounds. Tribe has fortunately abandoned such a position, but Dworkin continues to press a variation of it, insisting that our collective inability to resolve the matter requires the social order to respect the mother's choice. Yet here again the obvious counter-argument is that abortion poses difficulties even for those who rely solely on secular moral philosophies. First, one could easily oppose abortion with Rawlsian veil-of-ignorance arguments of the sort set out above. Alternatively, one could insist on the protection of innocent persons, defining persons so as to bring abortion within the exception to the Millian rule that individual freedom should be unfettered except where it results in harm to others.

The serious doubts about Dworkin's philosophical approach undercut his constitutional defense of *Roe v. Wade*. If the fetus is a person, how can its life be routinely ended for the mere convenience of the mother? And even if "life in earnest" has not started, the fetal interest might well justify the abridgment of the mother's freedom. As John Hart Ely observed 20 years ago, we legally prohibit cruelty to animals even though animals are not people. Why, then, does the state have no right to protect a fetus, which in the ordinary course of affairs will become a full-fledged person without further conscious intervention and assistance of others? In a sense, therefore, Dworkin may be correct when he insists that it is irrelevant to the debate whether the fetus is a person. But only because he loses the conceptual case in both directions.

Dworkin neglects some promising lines of attack on the pro-life position. For example, one could argue that a Rawlsian or Millian approach leads to absurdities of its own: Is it clear that, based on these approaches, legal protection should begin at conception? Or should protection be afforded to unfertilized eggs or sperm? Another tack is to argue that even if abortion is a wrong, it is one that can be prevented only by massive state intrusions leading to massive abuse: invasions of privacy, powerful investigative procedures, the risk of favoritism and bribery, the need to prevent women from running across state lines for abortions, and the distasteful peril of back-alley abortions.

These practical issues quickly come front and center in most ordinary discussions of the question. They are omitted from Dworkin's conceptual treatment of the issue, because, I suspect, their empirical and contingent power do not support *Roe*'s categorical prohibition of criminalizing first-trimester abortions. Forsaking the nitty-gritty issues of enforcement drives Dworkin back to ingenious but flawed normative arguments for the right to abortion that are congenial to his own philosophical inclinations. It is because these arguments don't work that *Life's Dominion* is both a forensic tour-de-force and an intellectual failure. The elegance of Dworkin's prose is simply not matched by the strength of his arguments.

Richard A. Epstein is James Parker Hall Distinguished Service Professor of Law at the University of Chicago.

Freedom Floaters

BY MELANIE S. TAMMEN

The Lonely Crossing of Juan Cabrera, by J. Joaquin Fraxedas, New York: St. Martin's Press, 174 pages, $18.98

The *Miami Herald* calls it "the second wave of elite Cuban refugees" since Castro's takeover. Since 1989, when Cuba's communist experiment began imploding, an estimated 200 to 400 top-level engineers, mathematicians, physicists, and other scientists have fled for U.S. shores. The first elite wave—landowners, business people, executives, doctors, and lawyers—arrived in the 1960s. By contrast, the new refugees, frequently from the academic world, spent decades supporting and benefiting from Castro's regime. For them, the decision to flee often is made after years of silent confusion and inner struggle.

The Lonely Crossing of Juan Cabrera is a novel about the accumulation of denial and disillusionment that precedes the decision to attempt crossing the 90-mile-wide Florida Straits on flimsy rafts—a decision made by thousands of Cubans each year. The tale's central character, Juan, is a physics professor whose father "disappeared" after the revolution. He is joined in his escape by two childhood friends: Raul, a fearless soldier who has just returned from

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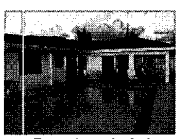

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THE**BOOK**CASE

the jungles of Angola, and Andres, who after 12 years as a political prisoner longs to be reunited with his daughter in Miami.

Juan was only 7 when the revolutionaries came and took away his father. His mother explained that the uniformed men had killed him, yet for months afterward Juan climbed his favorite framboyan tree each afternoon and watched for his father's return. When he and his mother moved to a government-assigned apartment in Havana, Juan began hiding his sweet childhood memories and, later, constructing the lies necessary to get ahead: His mother had been a maid, his father had been killed fighting beside Fidel, everything but the truth—that he was from a family of *latifundistas* (landowners).

Thirty years later, Professor Cabrera finishes his lecture at the university and drives to join his two friends on a North Cuba beach. They lash together three inner tubes and canvas with a few bits of rope and slip into the water. What follows is the three men's struggle atop their rafts—against hunger, loneliness, uncertainty, and the blistering sun—to keep from throwing themselves into the sea.

J. Joaquin Fraxedas's novel is a stirring depiction of the rafters' psychological and physical struggle. On the fifth day at sea, Juan's head is awash with "the deep, awesome voices of the beasts of the sea. They called to him and offered him pleasant things, as they did in the nursery rhymes of his infancy where fish and other marine creatures offered food and drink to little boys visiting the bottom of the sea. The animal voices said, 'leave the raft and join us, and you will see how nice everything will be.' "

At another point, the relief of death appears to Juan as a woman: "She was real, and warm, and now he felt her wrap her arms around him, pulling him slowly, with infinite promise, toward her womb. So he loosened his grip on the nylon rope and began to slip gently into her arms."

As Juan's raft floats away, his father's voice calls him: "I know you stayed up in the tree because you were afraid after what they did to me. But I understood and was not sad. And I knew you would come looking for me." Juan suddenly realizes he finally has faced the truth, chosen once and for all to reject his "pitiful life of dissembling, of fabricating," and he lunges to reach the rope.

The novel also follows the struggle of Cuban pilots in Miami who try to help their compatriots reach freedom by locating them at sea and radioing for their rescue. Day after day, they fly over the Florida Straits in a race to reach the rafters before the Grim Reaper. About one in every three rafts they locate is empty. Alberto, known in the Keys as "the pilot who's always looking for raft people," in 30 years has never spotted a rafter. Yet whenever he hears that some Cubans have left on a raft, he takes to the skies in his Cessna.

Some recent defectors now living in Florida maintain that the old-guard exiles there are suspicious of them because they left some three decades after the revolution. But the author himself is one such first-wave refugee—he fled Cuba in 1960 at the

HENRY PAYNE

age of 10 with his mother and his two younger siblings—and his novel is very sympathetic to the new freedom floaters.

Fraxedas's account of hallucinations at sea and other aspects of the rafters' journey depicts well the actual experience of Cubans who are fleeing on inner tubes, styrofoam blocks, anything that floats. His tale is based largely on interviews with the lucky few who have successfully floated to freedom. For every Cuban rafter who reaches Florida, three are lost at sea or captured by the Cuban coast guard.

Fraxedas, an Orlando attorney and a pilot by avocation, has recently been hitting the speaking circuit with José Basulto, who heads the real-life counterparts of the search-and-rescue pilots depicted in the book. In 1991 Basulto and a fellow Bay of Pigs veteran, Billy Schuss, founded Hermanos al Rescate (Brothers to the Rescue). These volunteer pilots, who search for rafters and radio the U.S. Coast Guard when they spot one, are an international brotherhood. Flyers from the United States, Argentina, Colombia, Venezuela, Peru, and Nicaragua have joined Cuban-American aviators in the privately funded effort.

Fraxedas wrote the novel, his first, in English; a Spanish translation was done by his uncle, Raoul Garcia Iglesias, a Miami writer whose short stories and poetry are known throughout the hemisphere. Betting on the market of Spanish readers in the United States, St. Martin's Press released *The Lonely Crossing of Juan Cabrera* in English and Spanish simultaneously—a first for a major U.S. publisher.

The Lonely Crossing of Juan Cabrera will be appreciated by anyone who has struggled to reach freedom in a free land—the Cuban, the Haitian, the East German before the fall of the Berlin Wall. The book also speaks to native-born citizens of free nations who want to better appreciate the liberty that was theirs by birthright and to every traveler who wishes that more people could go abroad, to the lands of the "unfree," to better understand how precious is that birthright. Such travelers, who often find themselves groping for words to explain the repression they have seen abroad, will find this an important book to give or to recommend.

Melanie Tammen is a free-lance writer in Winter Park, Florida, and an adjunct scholar of the Cato Institute.

Dangerous Assignment

BY MICHAEL I. KRAUSS

Fatal Tradeoffs: Public and Private Responsibilities for Risk, by W. Kip Viscusi
New York: Oxford University Press, 320 pages, $37.00

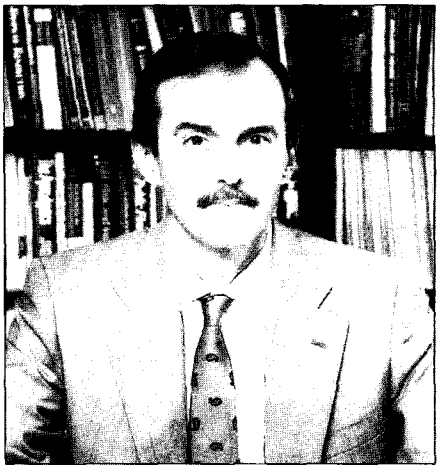
Life is replete with hazards to our physical and mental health. Eventually, one or a combination of them will kill each of us. Some of these risks (including the chance of getting beaned by a baseball, rocked in a roller coaster, or dumped by a date) are "goods": We "consume" them, and in important ways they help make life worth living. But other risks are "bads," in the sense that people are willing to incur costs to reduce the likelihood of their occurrence.

For everyone but anarcho-capitalists, it is proper that government attend to at least a few bad risks, like those posed by foreign invaders and domestic criminals. Handling these dangers is said to constitute a "public good," since Albert can't prevent Betty from free-riding on his defense of our borders or his maintenance of law and order. But reduction of most bad risks has until recently been seen as a private matter. Albert is best able to gauge the value of his using a chain saw; likewise, Betty internalizes much of the gain derived from living in an earthquake-proof building. Private goods are, for both economic and ethical reasons, properly allocated through private ordering, which employs property, contract, and, when costs are wrongfully imposed, tort law.

For some time government has been taking away the power of individuals to determine their own risks. The 1970s in particular saw a huge new wave of health, safety, and environmental regulation that in essence denied the existence of the public/private dichotomy sketched above. The public ostensibly was not making, or could not make, "correct" choices about the safety characteristics of their jobs, their cars, or their groceries. During the last 20 years Congress has created a series of agencies and directed them to guard our safety almost without compromise. Under each administration except that of Ronald Reagan, bureaucrats have been granted ever-increasing budgets and directed to protect us against ourselves.

Kip Viscusi's interesting book, *Fatal Tradeoffs*, addresses the question of whether these bad risks should have been moved from the private to the public sphere. He also asks how effectively the public sector has dealt with risk. His conclusions are unlikely to please the "reinventors of government" in the Clinton-Gore administration.

Viscusi, who teaches economics at Duke University and was deputy director of Jimmy Carter's Council on Wage and Price Stability, is a prolific author who has been concerned with the choice between individual and collective responses to risk throughout his career. *Fatal Tradeoffs* brings together much previously published and some new material on three risk-related themes. The first part of his book examines fundamental questions about measuring the value we place on our own lives. It also substantiates the (amazingly)



Viscusi: Government decisions about risk are usually worse than individual choices.

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controversial thesis that this value is finite, that we are not prepared to devote infinite resources to marginal lessening of risk. The second part of the book identifies seemingly irrational behavior that individuals exhibit when privately assuming risk. The third section, which takes up half of the book, consists of case studies detailing regulatory risk-reducing efforts of the '70s.

Fatal Tradeoffs is a collection, and it suffers from the unevenness and the lack of flow inherent in the format. It can most usefully be seen as a series of stories about the economic (not the ethical) costs and benefits of depriving individuals of the power to decide how risky their lives should be. Viscusi doesn't advocate that people should be free even if they make foolish choices. Nor does he depart from the welfare-economics assumption that markets can and do fail, and that government should intervene, if consumers' information is inadequate.

Yet information, including information about risks, is costly, whether provided by the private sector or by government. So a non-infinite amount of it will invariably be supplied. Government lovers can always find informational defects that allow them to advocate political intervention in markets for (more or less risky) goods. The pragmatic theme of *Fatal Tradeoffs* is that governmental decisions about risks are usually (but not always) worse than individual choices.

Part One patiently shows that Americans make relatively consistent choices about risk: We voluntarily accept money in return for greater peril; conversely, we are willing to spend money to abate risks. Our willingness to pay and to accept payment indicates that we place an average value of about $6 million on our lives. Of course, none of us have, as individuals, "average" tastes or demands. In the most interesting chapter of the book, "Strategic and Ethical Issues in the Valuation of Life," Viscusi points out that willingness to pay for safety generally rises with wealth. A Mercedes-Benz provides more shelter from a crash (if not from a car-jacking) than a Toyota Tercel. The foam seat cushions provided to coach passengers aren't as buoyant as the inflatable life vests furnished to those who fly first class. This merely signifies that safety is a good like many others.

Defying this wisdom, government regularly attempts to equalize risks in a "let them eat cake" fashion: Poorer consumers are typically required to bundle safety they don't want to pay for with a good they otherwise desire. This required bundling often leads poorer consumers to forego consumption. This is why, when automobile air bags are eventually mandated by the government, some consumers at the margin will continue to drive old (much more dangerous) heaps. This is also why the proposed Transportation Department requirement that infants occupy their own seat on commercial flights, at an expected savings of one life per two years, would produce a significant net *increase* in risk, as parents at the margin choose to drive rather than purchase additional tickets.

The realization that people don't attach infinite values to their lives is especially relevant to international trade policies. A purported desire to equalize safety levels throughout North America has led some Clinton advisers to propose that the United States not import from, say, Mexico any product for which manufacturing processes are "more hazardous" than they are here. But imposing the risk preferences of Robert Reich on typical Mexican workers greatly reduces Mexicans' welfare.

Increasing Mexicans' income by accepting the products they offer us will both increase their wealth and ultimately transform their preferences. Pace Reich, even if these workers are as "exploited" as he believes, it would be detrimental to them to export our current regulatory standards. Americans themselves were less averse to risk in earlier stages of development, and it was free assumption of these risks that allowed us to increase the value we place on our lives.

Part Two of *Fatal Tradeoffs* identifies and analyzes frequently observed anomalies in attitudes toward risk. These include our tendency to overweigh previously unrecognized low-probability risks (such as the risk of cancer from living near a nuclear power plant) while underweighing known higher-probability dangers (such as the risk of cancer from eating peanut butter).

Viscusi also describes our general resistance to moves from the status quo. In a survey he describes, respondents were informed that commonly marketed insecticides and toilet-bowl cleaners entail certain dangers. They were not willing to pay much more for the products in order to achieve risk reductions on the order of 0.05 percent. But when these same respondents were subsequently asked how much of a price *decrease* they would require to accept an increase in risk of 0.05 percent, all of them indicated that the product would be too risky at any price.

These and other "market failures" appear to provide Viscusi with a rationale for regulatory intervention, so long as it costs less per life saved than "we as a society" think a life is worth. Presumably, the losers under such regulations need not be compensated for the liberty they surrender (including the liberty to have eccentric tastes, and indeed the liberty to be irrational) in the name of the greater good. In Chapter 10, for example, Viscusi analyzes federal "cotton dust" regulations and concludes, contrary to his expectations, that they were probably cost-effective. In Chapter 14 he identifies regulations that may even be "too lax" on a cost-benefit calculus. He pays little attention to the informational and political problems involved in governmental identification of and response to risky behavior.

The case studies in Part Three are generally well presented. Most of the complicated mathematics is confined to appendices, though some calculus creeps up on the unsuspecting reader from time to time. On other occasions Viscusi's self-reference to "this paper," or his footnote citing one of his articles (instead of the chapter that reproduces the article) reminds the reader that *Fatal Tradeoffs* is patched together. Sometimes, Viscusi simply gets his facts wrong. His mistaken claim that tort awards are subject to taxation, for example, undermines his argument that they are not an adequate way to control unduly imposed risks. These flaws notwithstanding, *Fatal Tradeoffs* is a useful primer on risk and an invigorating reminder of the price we will pay to entrust to Hillary and Bill the task of making America safe.

Michael I. Krauss is a professor of law at George Mason University.

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PRO-CHOICE?

BY THOMAS W. HAZLETT

At a friendly dinner bash some months back, a woman reflected upon how her schooling had affected her upbringing. "I went to Catholic school," she said, "and I suppose that's why I hate the Church." This prompted a similar introspection among her dinner guests and hurled a revelation at me. "You know, I went to public schools," I pointed out, "and that's why I hate the government."

I was reminded of this incident by the hysteria gripping California as it confronts the so-called School Choice Initiative. This November, voters will decide whether or not parents should be given education vouchers for $2,600—about half the annual per-pupil operating expense of California's public schools—redeemable at any school, public or private. With so many Assistant Deputy Vice Principals for Extracurricular Activities' jobs on the line, there is naturally considerable panic. But the frenzied pace of scaremongering in the press exceeds even the lofty heights attained in the 1978 campaign against Prop. 13, when cataclysmic reports (such as the UCLA business school forecast that tax relief would plunge the entire nation into a depression of 1930s proportions) dominated the media.

My favorite fantasy concoction in this skirmish involves the allegation that the measure is a plot, essentially, by the Antichrist. Mainstream news organizations report that "witches' covens" will spring into the education market just to soak up "public funds." What else could one expect from a referendum fathered by radical evangelicals, as newspaper writers have identified the propellants of the school-choice measure. (Milton Friedman, a vocal choice supporter, is—to my knowledge—the only Christian fundamentalist named "Uncle Miltie.")

A terror campaign is being waged by the public-school cartel, drowning in public funds of their own. They are prudently willing to spend money to keep making money; at least $10 million will be poured into the disinformation offensive now in progress. Apparently, it is being swallowed whole by journalists who know that "choice" initiatives are never progressive unless contained within the walls of the mother's womb. (I have recommended that supporters of the proposition rename it The Post-Fetus School Choice Initiative.)

The slander that makes me giggle the loudest is the attack on the quality of private schools. Witches might run some pretty wacky schoolhouses and, Halloween parties excepted, disappoint a few young scholars. (Assuming they could get them to enroll in the first place; I have yet to hear a proud papa brag, "Hey Ralph, I got my smart, little Jennifer on the waiting list for that exclusive Devil's Cult Academy. Sorry about your Mary Beth striking out on the pentagram free-flow entrance exam.")

But it truly is a brilliant political gimmick to shift the story about public schools to something so absurdly moronic that, by the time one stops laughing, the target has moved on. That target damn well ought to be the California public schools.

Don't argue with me now, NEA—I am the product of your good work. I am a linear extrapolation of the California public schools: Elementary, junior high, and high school were spent entirely within their confines. (I could keep going, through undergraduate, graduate, and faculty employment at the University of California, but that would be rubbing it in.) Witchcraft? You want to see some real educational voodoo?

I remember a teacher at Granada Hills High who delighted in pounding home the fact that "anything women could do, men could do better." He devilishly pointed out that traditional female chores, like cooking or home design, were inevitably performed on the world-class level (as opposed to the stay-at-home mom level) by the *machismo* gender. He smiled while repeating racial epithets (telling us once that the Japanese were considered "all asses and elbows" due to their success in the gardening trade, presumably owing to *male* Japanese gardeners) and permitted virtually no thoughtful response—challengers were gleefully ridiculed.

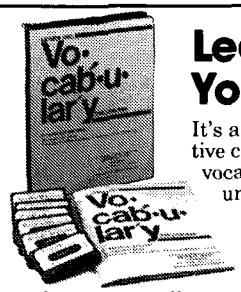
Not so in my eighth- and ninth-grade history classes. I loved this teacher's classes because we got to talk back, and there was plenty of idiocy in the air. I can still hear him wailing his cherished syllogism: "If we can kill people in Vietnam, the people of Watts can riot." Awesome, dude. This man bet me—in 1966—that within 10 years the United States would annex Canada (or was it the other way around?). If you're reading, Mr. Turrow, you owe me 10 bucks.

I recall a Northridge Junior High math teacher who was so incredibly inept at explaining the intricacies of the decimal number system that he would become swept up in theoretical arguments with 13-year-olds—and lose. And there was my 11th-grade history teacher, who assigned a paper on *The Prince*. Since it was the year Soviet tanks ruthlessly crushed the Prague Spring, I alertly made a contemporary comparison and titled my paper "The Prince, by Ivan Machiavelli." She gave me a D, noting contemptuously that Machiavelli was Italian, not Russian.

Given what I had to swallow, I might like to check out the core requirements over at Sorcerer's Preparatory. But whereas I'm joking, the public-school officionadoes are apparently serious: how else to interpret the claim of these hands-on experts that vouchers are bad because parents, given half a choice, will yank their kids out of public schools and deposit them in Satanic Tech?

And if there is one thing I did learn, it's this: If we can keep people locked up in public schools, the people of Watts can riot.

Contributing Editor Thomas W. Hazlett teaches economics and public policy at the University of California, Davis.



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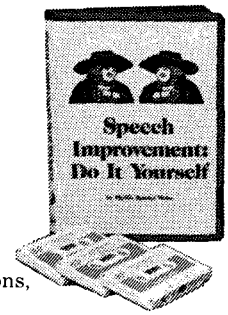

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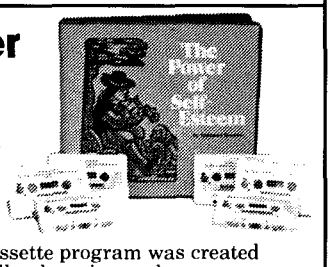

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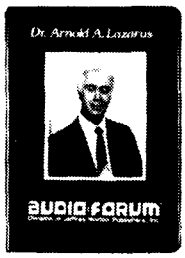

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